

(§241 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 241 of this title and Tables.

CODIFICATION

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of the United States Cotton Standards Act which comprises this chapter.

EFFECTIVE DATE

Section 156(e) of Pub. L. 97-35 provided that: "The provisions of this section [enacting this section, amending sections 15b, 55, and 473a of this title, and enacting provision set out as a note under section 473a of this title] shall become effective October 1, 1981."

§ 62. Definitions

Wherever used in this chapter, (a) the word "person" imports the plural or the singular, as the case demands, and includes an individual, a partnership, a corporation, or two or more persons having a joint or common interest; (b) the word "commerce" means commerce between any State or the District of Columbia and any place outside thereof, or between points within the same State or the District of Columbia but through any place outside thereof, or within the District of Columbia; and (c) the word "cotton" means cotton of any variety produced within the continental United States, including linters.

(Mar. 4, 1923, ch. 288, §11, 42 Stat. 1519.)

CODIFICATION

Section is composed of the first sentence of section 11 of act Mar. 4, 1923. The remainder of section 11 is contained in section 63 of this title.

§ 63. Liability of principal for act of agent

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any person, within the scope of his employment or office, shall in every case be deemed also the act, omission, or failure of such person as well as that of such agent, officer, or other person.

(Mar. 4, 1923, ch. 288, §11, 42 Stat. 1519.)

CODIFICATION

Section is composed of the second sentence of section 11 of act Mar. 4, 1923. The first sentence of section 11 is contained in section 62 of this title.

§ 64. Appropriation for expenses; appointment by Secretary of officers and agents; compensation

There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the provisions of this chapter; and the Secretary of Agriculture is authorized, within the limits of such appropriations, to appoint, remove, and fix the compensations of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administra-

tion of this chapter in the District of Columbia and elsewhere.

(Mar. 4, 1923, ch. 288, §12, 42 Stat. 1519.)

§ 65. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby.

(Mar. 4, 1923, ch. 288, §13, 42 Stat. 1520.)

CHAPTER 3—GRAIN STANDARDS

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§ 71. Short title

This chapter may be cited as the "United States Grain Standards Act".

(Aug. 11, 1916, ch. 313, pt. B, §1, 39 Stat. 482; Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 761.)

CODIFICATION

This chapter constitutes part B of "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1917, and for other purposes," approved Aug. 11, 1916. Part A of act of Aug. 11, 1916, containing the "United States Cotton Futures Act," was repealed by section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. Part C of that act contained the "United

States Warehouse Act,” and is incorporated, as amended, as section 241 et seq. of this title.

Section is comprised of part of section 1 of part B of act Aug. 11, 1916. Other provisions contained in section 1 were classified to former sections 72 and 73 of this title.

AMENDMENTS

1968—Pub. L. 90-487 substituted “may be cited as” for “shall be known by the short title of”.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-487 effective 180 days after Aug. 15, 1968, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-472, §1(a), Nov. 9, 2000, 114 Stat. 2058, provided that: “This Act [enacting sections 228d, 241 to 256, 918a, and 1726b of this title and section 1012 of Title 16, Conservation, amending sections 15b, 77, 79, 79a, 79b, 79d, 84, 87b, 87h, 87j, 229, 1622, 1736a, 1926, 2009d, 5101, 5102, and 5106 of this title and sections 1766 and 1786 of Title 42, The Public Health and Welfare, repealing section 87e-1 of this title, enacting provisions set out as notes under sections 79, 181, 241, and 1314e of this title and section 1786 of Title 42, amending provisions set out as notes under sections 74, 612c, and 1421 of this title, and repealing provisions set out as notes under sections 75a, 76, and 79 of this title] may be cited as the ‘Grain Standards and Warehouse Improvement Act of 2000’.”

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103-156, §1(a), Nov. 24, 1993, 107 Stat. 1525, provided that: “This Act [amending sections 75 to 77, 79 to 79b, 79d, 84 to 87e, 87f, 87f-1, 87h, 87j, and 87k of this title, enacting provisions set out as a note under section 75 of this title, and repealing provisions set out as a note under section 79 of this title] may be cited as the ‘United States Grain Standards Act Amendments of 1993’.”

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-624, title XX, §2001, Nov. 28, 1990, 104 Stat. 3928, provided that: “This title [enacting sections 75b, 87k, 1427-1, 1593a, and 1622a of this title, amending sections 74, 76, 77, 87b, 1423, and 1445e of this title, and enacting provisions set out as a note under section 76 of this title] may be cited as the ‘Grain Quality Incentives Act of 1990’.”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-518, §1, Oct. 24, 1988, 102 Stat. 2584, provided that: “This Act [enacting sections 79d and 87j of this title, amending sections 55, 79, 79a, and 87h of this title, and enacting provisions set out as notes under sections 79 and 1421 of this title] may be cited as the ‘United States Grain Standards Act Amendments of 1988’.”

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-641, title III, §301, Nov. 10, 1986, 100 Stat. 3564, provided that: “This title [amending sections 74 and 87b of this title and enacting provisions set out as notes under sections 76 and 87b of this title] may be cited as the ‘Grain Quality Improvement Act of 1986’.”

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94-582, Oct. 21, 1976, 90 Stat. 2867, provided: “That this Act [enacting sections 75a, 79a, 79b, 87e-1, 87f-1, and 87f-2 of this title, amending sections 74, 75, 76, 77, 78, 79, 84, 85, 86, 87, 87a, 87b, 87c, 87e, 87f, 87g, and 87h of this title, section 5316 of Title 5, Government Organization and Employees, and section 1114 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under sections 74, 75a, 76, and 79 of this title] may be cited as the ‘United States Grain Standards Act of 1976’.”

§§ 72, 73. Omitted

CODIFICATION

Sections were omitted in the general reorganization of this chapter by Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 761.

Section 72, act Aug. 11, 1916, ch. 313, pt. B, §1 (part), 39 Stat. 482, defined the words “person” and “in interstate or foreign commerce”. See section 75 of this title.

Section 73, act Aug. 11, 1916, ch. 313, pt. B, §1 (part), 39 Stat. 482, made associations, partnerships, and corporations liable for the acts of their agents within the scope of their employment or office. See section 87d of this title.

§74. Congressional findings and declaration of policy

(a) Grain is an essential source of the world’s total supply of human food and animal feed and is merchandised in interstate and foreign commerce. It is declared to be the policy of the Congress, for the promotion and protection of such commerce in the interests of producers, merchandisers, warehousemen, processors, and consumers of grain, and the general welfare of the people of the United States, to provide for the establishment of official United States standards for grain, to promote the uniform application thereof by official inspection personnel, to provide for an official inspection system for grain, and to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce in the manner herein-after provided; with the objectives that grain may be marketed in an orderly and timely manner and that trading in grain may be facilitated. It is hereby found that all grain and other articles and transactions in grain regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce and that regulation thereof as provided in this chapter is necessary to prevent or eliminate burdens on such commerce and to regulate effectively such commerce.

(b) It is also declared to be the policy of Congress—

(1) to promote the marketing of grain of high quality to both domestic and foreign buyers;

(2) that the primary objective of the official United States standards for grain is to certify the quality of grain as accurately as practicable; and

(3) that official United States standards for grain shall—

(A) define uniform and accepted descriptive terms to facilitate trade in grain;

(B) provide information to aid in determining grain storability;

(C) offer users of such standards the best possible information from which to determine end-product yield and quality of grain;

(D) provide the framework necessary for markets to establish grain quality improvement incentives;

(E) reflect the economic value-based characteristics in the end uses of grain; and

(F) accommodate scientific advances in testing and new knowledge concerning factors related to, or highly correlated with, the end use performance of grain.

(Aug. 11, 1916, ch. 313, pt. B, §2, 39 Stat. 482; July 18, 1940, ch. 636, 54 Stat. 765; Pub. L. 90-487, §1,

Aug. 15, 1968, 82 Stat. 761; Pub. L. 94-582, § 2, Oct. 21, 1976, 90 Stat. 2867; Pub. L. 99-641, title III, § 302, Nov. 10, 1986, 100 Stat. 3564; Pub. L. 101-624, title XX, § 2004, Nov. 28, 1990, 104 Stat. 3929.)

AMENDMENTS

1990—Subsec. (b)(3)(E), (F). Pub. L. 101-624 added subpars. (E) and (F).

1986—Pub. L. 99-641 designated existing provisions as subsec. (a) and added subsec. (b).

1976—Pub. L. 94-582 expressed the policy of Congress to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce and the finding of Congress of the necessity to regulate grain transactions to prevent or eliminate burdens on commerce and to regulate effectively such interstate or foreign commerce, and provided that the grain be marketed in a timely manner.

1968—Pub. L. 90-487 substituted a declaration of policy by the Congress for provisions authorizing promulgation and establishment of grain standards by Secretary of Agriculture.

1940—Act July 18, 1940, inserted “soybeans,” after “flaxseed.”

EFFECTIVE DATE OF 1976 AMENDMENT

Section 27 of Pub. L. 94-582, as amended by Pub. L. 95-113, title XVI, §§ 1602(d), 1605(b), 1607(b), 1608, Sept. 29, 1977, 91 Stat. 1025, 1030, 1031; Pub. L. 106-472, title I, § 110(c), Nov. 9, 2000, 114 Stat. 2061, provided that: “This Act [see Short Title of 1976 Amendment note set out under section 71 of this title] shall become effective thirty days after enactment hereof [Oct. 21, 1976].”

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

§ 75. Definitions

When used in this chapter, except where the context requires otherwise—

(a) the term “Secretary” means the Secretary of Agriculture of the United States or delegates of the Secretary;

(b) the term “Department of Agriculture” means the United States Department of Agriculture;

(c) the term “person” means any individual, partnership, corporation, association, or other business entity;

(d) the term “United States” means the States (including Puerto Rico) and the territories and possessions of the United States (including the District of Columbia);

(e) the term “State” means any one of the States (including Puerto Rico) or territories or possessions of the United States (including the District of Columbia);

(f) the term “interstate or foreign commerce” means commerce from any State to or through any other State, or to or through any foreign country;

(g) the term “grain” means corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 76 of this title;

(h) the term “export grain” means grain for shipment from the United States to any place outside thereof;

(i) the term “official inspection” means the determination (by original inspection, and when requested, reinspection and appeal in-

spection) and the certification, by official inspection personnel of the kind, class, quality, or condition of grain, under standards provided for in this chapter, or the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of such grain; or other facts relating to grain under other criteria approved by the Secretary under this chapter (the term “officially inspected” shall be construed accordingly);

(j) the term “official inspection personnel” means persons licensed or otherwise authorized by the Secretary pursuant to section 84 of this title to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing;

(k) the term “official mark” means any symbol prescribed by regulations of the Secretary to show the official determination of official inspection or official weighing;

(l) the term “official grade designation” means a numerical or sample grade designation, specified in the standards relating to kind, class, quality, and condition of grain, provided for in this chapter;

(m) the term “official agency” means any State or local governmental agency, or any person, designated by the Secretary pursuant to subsection (f) of section 79 of this title for the conduct of official inspection (other than appeal inspection), or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing);

(n) the terms “official certificate” and “official form” mean, respectively, a certificate or other form prescribed by regulations of the Secretary under this chapter;

(o) the term “official sample” means a sample obtained from a lot of grain by, and submitted for official inspection by, official inspection personnel (the term “official sampling” shall be construed accordingly);

(p) the term “submitted sample” means a sample submitted by or for an interested person for official inspection, other than an official sample;

(q) the term “lot” means a specific quantity of grain identified as such;

(r) the term “interested person” means any person having a contract or other financial interest in grain as the owner, seller, purchaser, warehouseman, or carrier, or otherwise;

(s) the verb “ship” with respect to grain means transfer physical possession of the grain to another person for the purpose of transportation by any means of conveyance, or transport one’s own grain by any means of conveyance;

(t) the terms “false”, “incorrect”, and “misleading” mean, respectively, false, incorrect, and misleading in any particular;

(u) the term “deceptive loading, handling, weighing, or sampling” means any manner of loading, handling, weighing, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Secretary under this chapter;

(v) the term “export elevator” means any grain elevator, warehouse, or other storage or handling facility in the United States as determined by the Secretary, from which grain is shipped from the United States to an area outside thereof;

(w) the term “export port location” means a commonly recognized port of export in the United States or Canada, as determined by the Secretary, from which grain produced in the United States is shipped to any place outside the United States;

(x) the term “official weighing” means the determination and certification by official inspection personnel of the quantity of a lot of grain under standards provided for in this chapter, based on the actual performance of weighing or the physical supervision thereof, including the physical inspection and testing for accuracy of the weights and scales and the physical inspection of the premises at which the weighing is performed and the monitoring of the discharge of grain into the elevator or conveyance (the terms “officially weigh” and “officially weighed” shall be construed accordingly);

(y) the term “supervision of weighing” means such supervision by official inspection personnel of the grain-weighing process as is determined by the Secretary to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance; and

(z) the term “intracompany shipment” means the shipment, within the United States, of grain lots between facilities owned or controlled by the person owning the grain. The shipment of grain owned by a cooperative, from a facility owned by that cooperative, to an export facility which it jointly owns with other cooperatives, qualifies as an intracompany shipment.

(Aug. 11, 1916, ch. 313, pt. B, § 3, 39 Stat. 483; Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 761; Pub. L. 94-582, § 3, Oct. 21, 1976, 90 Stat. 2867; Pub. L. 95-113, title XVI, §§ 1604(a), 1606(a), Sept. 29, 1977, 91 Stat. 1026, 1030; Pub. L. 96-437, § 1, Oct. 13, 1980, 94 Stat. 1870; Pub. L. 102-237, title X, § 1007(1), Dec. 13, 1991, 105 Stat. 1897; Pub. L. 103-156, § 12(a), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103-354, title II, § 293(a)(1), (7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing in subsecs. (i) to (k), (m), (n), (u) to (w), and (y), redesignated subsec. (bb) as (z), and struck out former subsecs. (z) and (aa) which read as follows:

“(z) the term ‘Administrator’ means the Administrator of the Federal Grain Inspection Service or delegates of the Administrator;

“(aa) the term ‘Service’ means the Federal Grain Inspection Service; and”.

1993—Pub. L. 103-156, § 12(a), which directed amendment of “Section 3”, without specifying the name of

the Act being amended, was executed to this section, which is section 3 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, § 12(a)(1), substituted “delegates of the Secretary” for “his delegates”.

Subsec. (z). Pub. L. 103-156, § 12(a)(2), substituted “delegates of the Administrator” for “his delegates”.

1991—Subsecs. (i) to (k), (u) to (x), (z), (aa). Pub. L. 102-237 substituted “the” for “The” before “term”.

1980—Subsec. (bb). Pub. L. 96-437 added subsec. (bb).

1977—Subsec. (g). Pub. L. 95-113, § 1604(a)(1), substituted “sorghum” for “grain sorghum”.

Subsec. (i). Pub. L. 95-113, § 1606(a), struck out reference to the determination of the quantity of sacks of grain upon the request of the interested party applying for inspection.

Subsec. (m). Pub. L. 95-113, § 1604(a)(2), substituted “or subsection (c) of section 79a of this title for the conduct of official weighing or supervision of weighing (other than appeal weighing)” for “or subsection (b) of section 79a of this title for the conduct of supervision of weighing”.

Subsec. (x). Pub. L. 95-113, § 1604(a)(3), substituted “under standards provided for in this chapter” for “under standards provided in this chapter”.

Subsec. (y). Pub. L. 95-113, § 1604(a)(4), substituted “such supervision by official inspection personnel of the grain-weighing process as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance” for “the supervision of the weighing process and of the certification of the weight of grain, and the physical inspection of the premises at which the weighing is performed to assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance represented on the weight certificate or other document”.

1976—Subsec. (i). Pub. L. 94-582, § 3(a), substituted “Administrator” for “Secretary”, and expanded definition of “official inspection” to include determination “(by original inspection, and when requested, reinspection and appeal inspection)” and determination and certification of the condition of vessels and other carriers or receptacles for the transportation of grain insofar as it may affect the quality or condition of the grain.

Subsec. (j). Pub. L. 94-582, § 3(b), in redefining “official inspection personnel”, substituted provision declaring term to mean “persons licensed or otherwise authorized by the Administrator pursuant to section 84 of this title to perform all or specified functions involved in official inspection, official weighing, or supervision of weighing, or in the supervision of official inspection, official weighing or supervision of weighing” for “employees of State or other governmental agencies or commercial agencies or other persons who are licensed to perform all or specified functions involved in official inspection under this chapter; employees of the Department of Agriculture who are authorized to supervise official inspection and to conduct appeal inspection or initial inspection of United States grain in Canadian ports”.

Subsec. (k). Pub. L. 94-582, § 3(c), substituted “Administrator” for “Secretary” and “official inspection or official weighing” for “an official inspection”.

Subsec. (l). Pub. L. 94-582, § 3(d), substituted “standards relating to kind, class, quality, and condition of grain,” for “standards”.

Subsec. (m). Pub. L. 94-582, § 3(e), substituted definition of “official agency” meaning “any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 79 of this title for the conduct of official inspection (other than appeal inspection), or subsection (b) of section 79a of this title for the conduct of supervision of weighing”

for definition of “official inspection agency” meaning “the agency or person located at an inspection point designated by the Secretary for the conduct of official inspection under this chapter”.

Subsec. (n). Pub. L. 94-582, §3(f), substituted “Administrator” for “Secretary”.

Subsec. (u). Pub. L. 94-582, §3(g), included within term defined and its definition the concept of “weighing” and substituted “Administrator” for “Secretary”.

Subsecs. (v) to (aa). Pub. L. 94-582, §3(h), added subsecs. (v) to (aa).

1968—Pub. L. 90-487 substituted provisions defining terms used in the chapter for provisions that the standards fixed and established by the Secretary of Agriculture be known as the official grain standards of the United States.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 16 of Pub. L. 103-156 provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act [amending this section and sections 75a to 77, 79 to 79b, 79d, 84 to 87e, 87f, 87f-1, 87h, 87j, and 87k of this title and repealing provisions set out as a note under section 79 of this title] shall take effect on the date of the enactment of this Act [Nov. 24, 1993].

“(b) SPECIAL EFFECTIVE DATE FOR CERTAIN PROVISIONS.—The amendments made by sections 2, 3, and 13(a) [amending sections 79d and 87h of this title and repealing provisions set out as a note under section 79 of this title] shall take effect as of September 30, 1993.”

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

§ 75a. Repealed. Pub. L. 103-354, title II, § 293(a)(2), Oct. 13, 1994, 108 Stat. 3237

Section, act Aug. 11, 1916, ch. 313, pt. B, §3A, as added Oct. 21, 1976, Pub. L. 94-582, §4, 90 Stat. 2868; amended Sept. 29, 1977, Pub. L. 95-113, title XVI, §1604(b), 91 Stat. 1026; Nov. 24, 1993, Pub. L. 103-156, §15, 107 Stat. 1530, established Federal Grain Inspection Service in Department of Agriculture and provided for cost containment plan to make the Service more efficient.

§ 75b. Omitted

CODIFICATION

Section, Pub. L. 101-624, title XX, §2002, Nov. 28, 1990, 104 Stat. 3928, provided for establishment of Committee on Grain Quality and Grain Quality Coordinator, established duties of Coordinator with respect to grain quality and competitiveness, and provided for termination of section on Jan. 1, 2001.

§ 76. Standards and procedures; establishment, amendment, and revocation

(a) Authority of Secretary

The Secretary is authorized to investigate the handling, weighing, grading, and transportation of grain and to fix and establish (1) standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, sorghum, soybeans, mixed grain, and such other grains as in

the judgment of the Secretary the usages of the trade may warrant and permit, and (2) standards or procedures for accurate weighing and weight certification and controls, including safeguards over equipment calibration and maintenance, for grain shipped in interstate or foreign commerce; and the Secretary is authorized to amend or revoke such standards or procedures whenever the necessities of the trade may require.

(b) Notice and opportunity for comment; standards regarding cleanliness of grain

(1) Before establishing, amending, or revoking any standards under this chapter, the Secretary shall publish notice of the proposals and give interested persons opportunity to submit data, views, and arguments thereon and, upon request, an opportunity to present data, views, and arguments orally in an informal manner. No standards established or amendments or revocations of standards under this chapter shall become effective less than one calendar year after promulgation thereof, unless in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner.

(2)(A)(i) If the Secretary determines that the establishment or amendment of standards regarding cleanliness conditions of wheat, corn, barley, sorghum and soybeans that meet the requirements for grade number 3 or better (as set forth in subparagraph (B)) would—

(I) enhance the competitiveness of exports of wheat, corn, barley, sorghum and soybeans from the United States with wheat, corn, barley, sorghum and soybean exports marketed by other major exporters;

(II) result in the maintenance or expansion of the United States export market share for wheat, corn, barley, sorghum and soybeans;

(III) result in the maintenance or increase of United States producer income; and

(IV) be in the interest of United States agriculture, taking into consideration technical constraints, economic benefits and costs to producers and industry, price competitiveness, and importer needs;

the Secretary shall establish or amend the standards to include economically and commercially practical levels of cleanliness for wheat, corn, barley, sorghum and soybeans.

(ii) The Secretary shall make a finding under this subsection for grain of the type described in clause (i) as soon as practicable after November 28, 1990.

(B)(i) In establishing requirements for cleanliness characteristics, the Secretary shall—

(I) consider technical constraints, economic benefits and costs to producers and industry, the price competitiveness of United States agricultural production, and levels of cleanliness met by major competing nations that export wheat, corn, barley, sorghum and soybeans;

(II) promulgate regulations after providing for notice and an opportunity for public comment; and

(III) phase in any requirements for cleanliness characteristics by incrementally decreasing the levels of the objectionable material permitted in shipments of grade number 3 or better wheat, corn, barley, sorghum and soybeans.

(ii) Following the phase-in period referred to in clause (i)(III), subsequent revision of cleanliness requirements shall be conducted consistent with the schedule of the Secretary for reviewing grain standards.

(C) If the Secretary determines to establish requirements for cleanliness characteristics under this section, the Secretary shall ensure that such requirements are fully implemented not later than 6 years after November 28, 1990.

(c) Grade determining factors related to physical soundness and purity; notice and opportunity for comment

(1) In establishing standards under subsection (a) of this section for each grain for which official grades are established, the Secretary shall establish for each such grain official grade-determining factors and factor limits that reflect the levels of soundness and purity that are consistent with end-use performance goals of the major foreign and domestic users of each such grain. Such factors and factor limits for grades number 3 and better shall provide users of such standards the best possible information from which to determine end-use product quality. The Secretary shall establish factors and factor limits that will provide that grain meeting the requirements for grades number 3 and better will perform in accordance with general trade expectations for the predominant uses of such grain.

(2) In establishing factors and factor limits under paragraph (1), the Secretary shall provide for notice and an opportunity for public comment prior to making changes in the grade-determining factors and factor limits that shall be applicable under this section to grain that is officially graded.

(d) Moisture content criterion

If the Government of any country requests that moisture content remain a criterion in the official grade designations of grain, such criterion shall be included in determining the official grade designation of grain shipped to such country.

(Aug. 11, 1916, ch. 313, pt. B, § 4, 39 Stat. 483; Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 762; Pub. L. 94-582, § 5, Oct. 21, 1976, 90 Stat. 2869; Pub. L. 95-113, title XVI, § 1604(c), Sept. 29, 1977, 91 Stat. 1027; Pub. L. 99-198, title XVI, § 1671, Dec. 23, 1985, 99 Stat. 1632; Pub. L. 101-624, title XX, §§ 2005, 2006, Nov. 28, 1990, 104 Stat. 3930; Pub. L. 103-156, § 12(b), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103-354, title II, § 293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a) to (c). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Subsec. (a)(1). Pub. L. 103-156, which directed amendment of “Section 4(a)(1)” by substituting “the judgment of the Administrator” for “his judgment”, without specifying the name of the Act being amended, was executed to this section, which is section 4 of the United States Grain Standards Act, to reflect the probable intent of Congress.

1990—Subsec. (b). Pub. L. 101-624, § 2005, designated existing provisions as par. (1) and added par. (2).

Subsecs. (c), (d). Pub. L. 101-624, § 2006, added subsec. (c) and redesignated former subsec. (c) as (d).

1985—Subsec. (c). Pub. L. 99-198 added subsec. (c).

1977—Subsec. (a). Pub. L. 95-113 substituted “sorghum” for “grain sorghum”, “standards or procedures”

for “standards”, “weight certification and controls” for “weight certification procedures and controls”, and “calibration and maintenance, for grain” for “calibration and maintenance for grain”.

1976—Subsec. (a). Pub. L. 94-582, § 5(a), authorized weighing of grain, designated existing provisions as cl. (1), inserted cl. (2), and reenacted provision for amendment or revocation of standards.

Subsec. (b). Pub. L. 94-582, § 5(b), substituted “Administrator” for “Secretary” in two places.

1968—Pub. L. 90-487 substituted provisions authorizing Secretary to establish, amend, and revoke standards for provisions making the use of official standards compulsory, setting out exceptions, and providing for the right of appeal.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

BENEFITS AND COSTS ASSOCIATED WITH IMPROVED GRAIN QUALITY

Section 2003 of title XX of Pub. L. 101-624 provided that: “The Administrator of the Federal Grain Inspection Service shall estimate the economic impact, including the benefits and costs and the distribution of such benefits and costs, of any major changes necessary to carry out the amendments made under this title to sections 4 and 13 of the United States Grain Standards Act (7 U.S.C. 76 and 87b) prior to making such changes.”

REVISION OF GRAIN INSPECTION PROCEDURES TO REFLECT LEVELS OF INSECT INFESTATION

Pub. L. 99-641, title III, § 304, Nov. 10, 1986, 100 Stat. 3565, provided that: “Not later than 6 months after the date of enactment of this Act [Nov. 10, 1986], the Administrator of the Federal Grain Inspection Service shall issue a final rule that revises grain inspection procedures and standards established under the United States Grain Standards Act (7 U.S.C. 71 et seq.) to more accurately reflect levels of insect infestation.”

STUDY OF UNIFORM END-USE VALUE TESTS FOR GRAIN

Pub. L. 99-641, title III, § 307, Nov. 10, 1986, 100 Stat. 3566, as amended by Pub. L. 104-66, title I, § 1011(i), Dec. 21, 1995, 109 Stat. 710, provided that:

“(a) STUDY.—The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to conduct a study of the need for and availability of uniform end-use value tests for grain. The study shall include the following:

“(1) A survey of domestic and foreign buyers of grain to identify the information about grain characteristics that would be most useful to such buyers. The survey shall take into account those factors that buyers specify in contracts, test for, measure, or would measure if tests were available, including—

“(A) the starch, oil, and protein content, breakage susceptibility, and individual kernel moisture of corn;

“(B) the baking characteristics, protein content, gluten content and quality, and milling hardness of wheat; and

“(C) the protein, oil, and free-fatty-acid content of soybeans.

“(2) A review of the development and availability of tests for the characteristics identified in the survey

conducted under paragraph (1), including an evaluation of the costs of providing such tests.

“(b) END-USE TESTS.—

“(1) ONGOING REVIEW.—The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to maintain an ongoing review to determine the end-use tests that are of economic value to buyers, and the availability and costs of such tests.

“(2) REVISION OF PROCEDURES.—The Administrator of the Federal Grain Inspection Service, to the extent practicable, shall revise official grain inspection and certification procedures to include within official inspection (as defined in section 3(i) of the United States Grain Standards Act (7 U.S.C. 75(i))) those tests that are identified under the study conducted under subsection (a) as useful, available, and economically feasible.”

NEW GRAIN CLASSIFICATIONS

Section 1672 of Pub. L. 99-198 provided that:

“(a) The Secretary of Agriculture shall direct the Federal Grain Inspection Service and the Agricultural Research Service to cooperate in developing new means of establishing grain classifications taking into account characteristics other than those visually evident.

“(b) The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, semiannually, with the first report due not later than December 31, 1985, on the status of cooperative efforts required under subsection (a), as such efforts relate to more accurately classifying types of wheat and other grains currently in use.”

INVESTIGATION AND STUDY REGARDING ADEQUACY OF GRAIN STANDARDS; CHANGES IN STANDARDS; REPORT TO CONGRESS BY OCTOBER 21, 1978

Section 24 of Pub. L. 94-582, which provided for investigation and study by Administrator of the Federal Grain Inspection Service regarding adequacy of grain standards established under this chapter in relation to needs and concerns of domestic and foreign grain buyers, with Administrator, as result of such study, to make necessary changes in grain standards, and to submit report to Congress setting forth findings of study and actions taken as result thereof not later than two years after Oct. 21, 1976, was repealed by Pub. L. 106-472, title I, § 110(b), Nov. 9, 2000, 114 Stat. 2061.

§ 77. Official inspection and weighing requirements; waiver; supervision by representatives of Secretary

(a) Official samples and certificates; waiver; excepted grains

Whenever standards or procedures are effective under section 76 of this title for any grain—

(1) no person shall ship from the United States to any place outside thereof any lot of such grain, unless such lot is officially weighed and officially inspected in accordance with such standards or procedures, and unless a valid official certificate showing the official grade designation and certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or the agent of the shipper, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided*, That the Secretary may waive the foregoing requirement in emergency or other circumstances which would not impair the objectives of this chapter: *Provided further*, That the Secretary shall waive the requirement for official inspection whenever the parties to a

contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Secretary prior to shipment;

(2) except as the Secretary may provide in emergency or other circumstances which would not impair the objectives of this chapter, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed in accordance with such standards or procedure: *Provided*, That, unless the shipper or receiver requests that the grain be officially weighed, intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge, and grain transferred out of an export elevator to destinations within the United States shall not be officially weighed; and

(3) except as otherwise authorized by the Secretary, whenever a lot of grain is both officially inspected and officially weighed while being transferred into or out of a grain elevator, warehouse, or other storage or handling facility, an official certificate shall be issued showing both the official grade designation and the certified weight of the lot of grain.

(b) Supervision by representatives of Secretary

All official inspection and official weighing, whether performed by authorized employees of the Secretary or any other person licensed under section 84 of this title, shall be supervised by representatives of the Secretary, in accordance with such regulations as the Secretary may provide.

(c) Testing for aflatoxin contamination of corn shipped in foreign commerce

The Secretary is authorized and directed to require that all corn exported from the United States be tested to ascertain whether it exceeds acceptable levels of aflatoxin contamination, unless the contract for export between the buyer and seller stipulates that aflatoxin testing shall not be conducted.

(Aug. 11, 1916, ch. 313, pt. B, § 5, 39 Stat. 483; Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 763; Pub. L. 94-582, § 6, Oct. 21, 1976, 90 Stat. 2869; Pub. L. 95-113, title XVI, § 1606(b), Sept. 29, 1977, 91 Stat. 1030; Pub. L. 96-437, § 2, Oct. 13, 1980, 94 Stat. 1870; Pub. L. 101-624, title XX, § 2007, Nov. 28, 1990, 104 Stat. 3931; Pub. L. 103-156, § 12(c), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103-354, title II, § 293(a)(3), (7), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 106-472, title I, § 101, Nov. 9, 2000, 114 Stat. 2059.)

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106-472 struck out “(on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States)” after “officially inspected”.

1994—Pub. L. 103-354 substituted “employees of the Secretary” for “Service employees” in subsec. (b) and “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, §12(c), which directed amendment of “Section 5”, without specifying the name of the Act being amended, was executed to this section, which is section 5 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 103-156, §12(c)(1), substituted “the agent of the shipper” for “his agent”.

Subsec. (b). Pub. L. 103-156, §12(c)(2), substituted “regulations as the Administrator” for “regulations as he”.

1990—Subsec. (c). Pub. L. 101-624 added subsec. (c).

1980—Subsec. (a)(2). Pub. L. 96-437 inserted proviso that, unless the shipper or receiver requests that the grain be officially weighed, intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge, and grain transferred out of an export elevator to destinations within the United States shall not be officially weighed.

1977—Subsec. (a). Pub. L. 95-113 substituted “standards or procedures” for “standards” wherever appearing.

1976—Subsec. (a). Pub. L. 94-582 designated existing provisions as par. (1) of subsec. (a); struck out “that is sold, offered for sale, or consigned for sale by grade” after “any lot of such grain”; inserted official weighing requirement; substituted “officially inspected (on the basis of official samples taken after final elevation as near the final spout through which the grain passes as physically practicable as it is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States)” for “officially inspected in accordance with such standards on the basis of official samples taken after final elevation as the grain is being loaded aboard, or while it is in, the final carrier in which it is to be transported from the United States”; required the certificate to show the certified weight of the lot of grain provided by official inspection personnel; substituted provision for waiver by the Administrator of requirement for official inspection certificate in emergency or other circumstances which would not impair the objectives of this chapter for provision for waiver by the Secretary of any requirement of this section with respect to shipments from or to any area or any other class of shipments when in his judgment it is impracticable to provide official inspection with respect to such shipments; inserted provision for waiver by Administrator of requirement for official inspection whenever the parties to a contract for such shipment of a lot of grain (which is not sold, offered for sale, or consigned for sale by grade) from the United States to any place outside thereof mutually agree under the contract to ship such lot of grain without official inspection being performed and a copy of the contract is furnished to the Administrator prior to shipment; and added pars. (2) and (3) of subsec. (a).

Subsec. (b). Pub. L. 94-582 added subsec. (b).

1968—Pub. L. 90-487 substituted provisions requiring an official inspection for export grains but authorizing the waiver of such requirements when official inspection is impracticable for provisions prohibiting misrepresentation respecting grade shipped or delivered for shipment, allowing reexamination, requiring hearing in the event of a false or misleading description, and allowing publication of findings.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

§ 78. Use of official grade designations required; false or misleading grade designations for grain shipped out of the United States

(a) Whenever standards relating to kind, class, quality, or condition of grain are effective under section 76 of this title for any grain no person shall in any sale, offer for sale, or consignment for sale, which involves the shipment of such grain in interstate or foreign commerce, describe such grain as being of any grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, other than by an official grade designation, with or without additional information as to specified factors: *Provided*, That the description of such grain by any proprietary brand name or trademark that does not resemble an official grade designation, or with respect to interstate commerce, by the use of one or more grade factor designations set forth in the official United States standards for grain, or by other criteria shall not be deemed to be a description of grain as being of any grade.

(b) No person shall, in any sale, offer for sale, or consignment for sale, of any grain which involves the shipment of such grain from the United States to any place outside thereof, knowingly describe such grain by any official grade designation, or other description, which is false or misleading.

(Aug. 11, 1916, ch. 313, pt. B, §6, 39 Stat. 484; Pub. L. 85-509, July 11, 1958, 72 Stat. 352; Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 763; Pub. L. 94-582, §7, Oct. 21, 1976, 90 Stat. 2870; Pub. L. 95-113, title XVI, §1606(c), Sept. 29, 1977, 91 Stat. 1030.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted “criteria” for “factor information”.

1976—Subsec. (a). Pub. L. 94-582 substituted “standards relating to kind, class, quality, or condition of grain” for “standards”.

1968—Pub. L. 90-487 substituted provisions requiring the use of official grade designations and prohibiting the use of false or misleading description of grain shipped out of the United States, for provisions allowing the appeal to the Secretary from official grading, authorizing the payment of additional fees for employees required in making appeal inspections, and making the findings prima facie evidence of the grain’s true grade.

1958—Pub. L. 85-509 authorized payment of employees assigned to perform appeal inspection for all overtime, night, or holiday work, and permitted acceptance of reimbursement for any sums paid for such work.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90-487 provided that: “This Act [amending this section and sections 71, 74, 75, 76, 77, 79, 84, 85, 86, and 87 of this title and enacting sections 87a to 87h of this title] shall become effective one hundred

and eighty days after enactment hereof [Aug. 15, 1968], except that the repeal of the mandatory inspection provisions with respect to grain shipped or delivered for shipment in interstate commerce shall become effective thirty days after enactment hereof, and the provisions of sections 6(a) and 13(a)(5) of the United States Grain Standards Act, as amended by this Act [subsec. (a) of this section and section 87b(a)(5) of this title] shall then become effective with respect to such grain."

§ 79. Official inspection

(a) Grain required to be officially inspected

The Secretary is authorized to cause official inspection under the standards provided for in section 76 of this title to be made of all grain required to be officially inspected as provided in section 77 of this title, in accordance with such regulations as the Secretary may prescribe.

(b) Inspections made pursuant to request of interested persons

The Secretary is further authorized, upon request of any interested person, and under such regulations as the Secretary may prescribe, to cause official inspection to be made with respect to any grain whether by official sample, submitted sample, or otherwise within the United States under standards provided for in section 76 of this title, or, upon request of the interested person, under other criteria approved by the Secretary for determining the kind, class, quality, or condition of grain, or other facts relating to grain, whenever in the judgment of the Secretary providing such service will effectuate any of the objectives stated in section 74 of this title.

(c) Reinspections and appeals; cancellation of superseded certificates; sale of samples

The regulations prescribed by the Secretary under this chapter shall include provisions for reinspections and appeal inspections; cancellation and surrender of certificates superseded by reinspections and appeal inspections; and the use of standard forms for official certificates. The Secretary may provide by regulation that samples obtained by or for employees of the Secretary for purposes of official inspection shall become the property of the United States, and such samples may be disposed of without regard to the provisions of the Federal Property and Administrative Services Act of 1949, as amended.¹

(d) Official certificates as evidence

Official certificates setting out the results of official inspection issued and not canceled under this chapter shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

(e) Official inspection at export port locations; delegation of authority to State agencies

(1) Except as otherwise provided in paragraph (2) of this subsection, the Secretary shall cause official inspection at export port locations, for all grain required or authorized to be inspected by this chapter, to be performed by official inspection personnel employed by the Secretary or other persons under contract with the Secretary as provided in section 84 of this title.

(2) If the Secretary determines, pursuant to paragraph (3) of this subsection, that a State agency is qualified to perform official inspection, meets the criteria in subsection (f)(1)(A) of this section, and (A) was performing official inspection at an export port location under this chapter on July 1, 1976, or (B)(i) performed official inspection at an export port location at any time prior to July 1, 1976, (ii) was designated under subsection (f) of this section on December 22, 1982, to perform official inspections at locations other than export port locations, and (iii) operates in a State from which total annual exports of grain do not exceed, as determined by the Secretary, 5 per centum of the total amount of grain exported from the United States annually, the Secretary may delegate authority to the State agency to perform all or specified functions involved in official inspection (other than appeal inspection) at export port locations within the State, including export port locations which may in the future be established, subject to such rules, regulations, instructions, and oversight as the Secretary may prescribe, and any such official inspection shall continue to be the direct responsibility of the Secretary. Any such delegation may be revoked by the Secretary, at the discretion of the Secretary, at any time upon notice to the State agency without opportunity for a hearing.

(3) Prior to delegating authority to a State agency for the performance of official inspection at export port locations pursuant to paragraph (2) of this subsection, the Secretary shall (A) conduct an investigation to determine whether such agency is qualified, and (B) make findings based on such investigation. In conducting the investigation, the Secretary shall consult with, and review the available files of the Department of Justice, the Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture), and the Government Accountability Office.

(4) The Secretary may provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States shall be inspected in the manner provided in this subsection or subsection (f) of this section, as the Secretary determines will best meet the objectives of this chapter.

(f) Official inspections at other than export port locations; designation of agencies or persons to conduct official inspections

(1) With respect to official inspections other than at export port locations, the Secretary is authorized, upon application by any State or local governmental agency, or any person, to designate such agency or person as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection) at locations where the Secretary determines official inspection is needed, if—

(A) the agency or person shows to the satisfaction of the Secretary that such agency or person—

¹ See References in Text note below.

(i) has adequate facilities and qualified personnel for the performance of such official inspection functions;

(ii) will provide for the periodic rotation of official inspection personnel among the grain elevators, warehouses, or other storage or handling facilities at which the State or person provides official inspection, as is necessary to preserve the integrity of the official inspection service;

(iii) will meet training requirements and personnel standards established by the Secretary under section 84(g) of this title;

(iv) will otherwise conduct such training and provide such supervision of its personnel as are necessary to assure that they will provide official inspection in accordance with this chapter and the regulations and instructions thereunder;

(v) will not charge official inspection fees that are discriminatory or unreasonable;

(vi) if a State or local governmental agency, will not use any moneys collected pursuant to the charging of fees for any purpose other than the maintenance of the official inspection operation of the State or local governmental agency;

(vii) and any related entities do not have a conflict of interest prohibited by section 87 of this title;

(viii) will maintain complete and accurate records of its organization, staffing, official activities, and fiscal operations, and such other records as the Secretary may require by regulation;

(ix) if a State or local governmental agency, will employ personnel on the basis of job qualifications rather than political affiliations;

(x) will comply with all provisions of this chapter and the regulations and instructions thereunder; and

(xi) meets other criteria established in regulations issued under this chapter relating to official functions under this chapter; and

(B) the Secretary determines that the applicant is better able than any other applicant to provide official inspection service.

(2) GEOGRAPHIC BOUNDARIES FOR OFFICIAL AGENCIES.—Not more than one official agency designated under paragraph (1) or State delegated authority under subsection (e)(2) of this section to carry out the inspection provisions of this chapter shall be operative at the same time in any geographic area defined by the Secretary, except that, if the Secretary determines that the presence of more than one designated official agency in the same geographic area will not undermine the policy stated in section 74 of this title, the Secretary may—

(A) allow more than one designated official agency to carry out inspections within the same geographical area as part of a pilot program; and

(B) allow a designated official agency to cross boundary lines to carry out inspections in another geographic area if the Secretary also determines that—

(i) the current designated official agency for that geographic area is unable to provide inspection services in a timely manner;

(ii) a person requesting inspection services in that geographic area has not been receiving official inspection services from the current designated official agency for that geographic area; or

(iii) a person requesting inspection services in that geographic area requests a probe inspection on a barge-lot basis.

(3) Except as authorized by the Secretary, no official agency or State delegated authority pursuant to subsection (e)(2) of this section shall officially inspect under this chapter any official or other sample drawn from a lot of grain and submitted for inspection unless such lot of grain is physically located within the geographic area assigned to the agency by the Secretary at the time such sample is drawn.

(4) No State or local governmental agency or person shall provide any official inspection for the purposes of this chapter except pursuant to an unsuspended and unrevoked delegation of authority or designation by the Secretary, as provided in this section, or as provided in section 84(a) of this title.

(g) Termination, renewal, amendment, cancellation, and revocation of designations of official agencies

(1) Designations of official agencies shall terminate at such time as specified by the Secretary but not later than triennially and may be renewed in accordance with the criteria and procedure prescribed in subsection (f) of this section.

(2) A designation of an official agency may be amended at any time upon application by the official agency if the Secretary determines that the amendment will be consistent with the provisions and objectives of this chapter; and a designation will be cancelled upon request by the official agency with ninety days written notice to the Secretary. A fee as prescribed by regulations of the Secretary shall be paid by the official agency to the Secretary for each such amendment, to cover the costs incurred by the Secretary in connection therewith, and it shall be deposited in the fund created in subsection (j) of this section.

(3) The Secretary may revoke a designation of an official agency whenever, after opportunity for hearing is afforded the agency, the Secretary determines that the agency has failed to meet one or more of the criteria specified in subsection (f) of this section or the regulations under this chapter for the performance of official functions, or otherwise has not complied with any provision of this chapter or any regulation prescribed or instruction issued to such agency under this chapter, or has been convicted of any violation of other Federal law involving the handling or official inspection of grain: *Provided*, That the Secretary may, without first affording the official agency an opportunity for a hearing, suspend any designation pending final determination of the proceeding whenever the Secretary has reason to believe there is cause for revocation of the designation and considers such action to be in the best interest of the official inspection system under this chapter. The Secretary shall afford any such agency an opportunity for a hearing within thirty days after temporarily suspending such designation.

(h) Official inspections at locations other than export port locations when designated official agencies are not available

If the Secretary determines that official inspection by an official agency designated under subsection (f) of this section is not available on a regular basis at any location (other than at an export port location) where the Secretary determines such inspection is needed to effectuate the objectives stated in section 74 of this title, and that no official agency within reasonable proximity to such location is willing to provide or has or can acquire adequate personnel and facilities for providing such service on an interim basis, official inspection shall be provided by authorized employees of the Secretary, and other persons licensed by the Secretary to perform official inspection functions, as provided in section 84 of this title, until such time as the service can be provided on a regular basis by an official agency.

(i) Official inspections in Canadian ports

The Secretary is authorized to cause official inspection under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canadian ports, and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such inspection. All or specified functions of such inspections shall be performed by official inspection personnel employed by the Secretary or, except for appeals, by persons operating under a contract with the Secretary or as otherwise provided by agreement with the Canadian Government.

(j) Fees; establishment, amount, payment, etc.

(1) The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Secretary incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Secretary incident to its² performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs related to such official inspection of grain. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under this chapter.

(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Secretary fees in such amount as the Secretary determines fair and reasonable and as will cover the estimated costs incurred by the Secretary relating to supervision of official

agency personnel and supervision by the Secretary of the Secretary's field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 85, 86, and 87c of this title. The fees shall be payable after the services are performed at such times as specified by the Secretary and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Secretary, of the fee currently due plus interest and any further expenses incurred by the Secretary because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary and adjusted to the nearest one-eighth of 1 per centum.

(3) Any sums collected or received by the Secretary under this chapter and deposited to the fund created in paragraph (1) of this subsection and any late payment penalties collected by the Secretary and credited to such fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The interest earned on such sums and any late payment penalties collected by the Secretary shall be credited to the fund and shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under this chapter.

(4) The duties imposed by paragraph (2) on designated official agencies and State agencies described in such paragraph and the investment authority provided by paragraph (3) shall expire on September 30, 2015. After that date, the fees established by the Secretary pursuant to paragraph (1) shall not cover administrative and supervisory costs related to the official inspection of grain.

(Aug. 11, 1916, ch. 313, pt. B, § 7, 39 Stat. 484; Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 763; Pub. L. 94-582, § 8, formerly § 8(a), Oct. 21, 1976, 90 Stat. 2870, renumbered Pub. L. 106-472, title I, § 110(a)(1), Nov. 9, 2000, 114 Stat. 2060; Pub. L. 95-113, title XVI, §§ 1602(a), 1604(d), 1606(d), Sept. 29, 1977, 91 Stat. 1025, 1027, 1030; Pub. L. 97-35, title I, § 155(1), Aug. 13, 1981, 95 Stat. 371; Pub. L. 97-98, title IX, § 1113(a), Dec. 22, 1981, 95 Stat. 1268; Pub. L. 98-469, § 2(1), Oct. 11, 1984, 98 Stat. 1831; Pub. L. 100-518, § 2(1), Oct. 24, 1988, 102 Stat. 2584; Pub. L. 103-156, §§ 4(a), 5(a), 12(d), 14(a), Nov. 24, 1993, 107 Stat. 1525, 1526, 1528, 1529; Pub. L. 103-354, title II, § 293(a)(4), (7), (8), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 106-472, title I, §§ 102(a), 103(a), Nov. 9, 2000, 114 Stat. 2059, 2060; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-83, § 1(a), Sept. 30, 2005, 119 Stat. 2053.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (c), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Except

² So in original. Probably should be "the Secretary's".

for title III of the Act, which is classified generally to subchapter IV (§251 et seq.) of chapter 4 of Title 41, Public Contracts, the Act was repealed and reenacted by Pub. L. 107-217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapters 1 to 11 of Title 40, Public Buildings, Property, and Works.

CODIFICATION

Section as originally enacted was composed of part of section 7 of part B of act Aug. 11, 1916. Other provisions of section 7 were classified to former sections 80 to 83 of this title.

AMENDMENTS

2005—Subsec. (j)(4). Pub. L. 109-83 substituted “2015” for “2005”.

2004—Subsec. (e)(3). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

2000—Subsec. (f)(2). Pub. L. 106-472, §102(a), added heading and text of par. (2) and struck out former par. (2) which read as follows: “Not more than one official agency or State delegated authority pursuant to subsection (e)(2) of this section for carrying out the inspection provisions of this chapter shall be operative at one time for any geographic area as determined by the Secretary to effectuate the objectives stated in section 74 of this title, except that the Secretary may conduct pilot programs to allow more than 1 official agency to carry out inspections within a single geographical area without undermining the policy stated in section 74 of this title.”

Subsec. (j)(4). Pub. L. 106-472, §103(a), substituted “2005” for “2000” in first sentence.

1994—Pub. L. 103-354 substituted “supervision by the Secretary of the Secretary’s field office personnel” for “supervision of Service personnel of its field office personnel” in first sentence of subsec. (j)(2) and substituted “Secretary” for “Administrator” and “Service” wherever appearing.

1993—Pub. L. 103-156, §12(d), which directed amendment of “Section 7”, without specifying the name of the Act being amended, was executed to this section, which is section 7 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, §12(d)(1), substituted “regulations as the Administrator” for “regulations as he”.

Subsec. (b). Pub. L. 103-156, §12(d)(2), substituted “regulations as the Administrator” for “regulations as he” and “the judgment of the Administrator” for “his judgment”.

Subsec. (e)(2). Pub. L. 103-156, §12(d)(3), substituted “oversight as the Administrator” for “oversight as he” and “the discretion of the Administrator” for “his discretion”.

Subsec. (f)(1)(A)(vi). Pub. L. 103-156, §4(a)(1), substituted “of the State” for “or other agricultural programs operated by the State”.

Subsec. (f)(2). Pub. L. 103-156, §5(a), inserted before period at end “, except that the Administrator may conduct pilot programs to allow more than 1 official agency to carry out inspections within a single geographical area without undermining the policy stated in section 74 of this title”.

Subsec. (i). Pub. L. 103-156, §4(a)(2), inserted before period at end “or as otherwise provided by agreement with the Canadian Government”.

Subsec. (j)(4). Pub. L. 103-156, §14(a), added par. (4).

1988—Subsec. (j). Pub. L. 100-518 reenacted subsec. (j) without change.

1984—Subsec. (j)(3). Pub. L. 98-469 temporarily added par. (3). See Effective and Termination Dates of 1984 Amendment note below.

1981—Subsec. (e)(2). Pub. L. 97-98 inserted provision authorizing the Administrator to delegate authority to perform grain inspection functions at export port locations to any State agency that performed official inspection at an export port location at any time prior to

July 1, 1976, was designated under subsec. (f) of this section on Dec. 22, 1981, to perform inspections at locations other than export port locations, and operates in a State from which the total annual exports of grain do not exceed 5 per centum of the total amount of grain exported from the United States.

Subsec. (j). Pub. L. 97-35 temporarily designated existing provisions as par. (1), made changes in nomenclature and provided for inclusion, rather than exclusion, of administrative and supervisory costs, and added par. (2). See Effective and Termination Dates of 1981 Amendments note below.

1977—Subsec. (b). Pub. L. 95-113, §1606(d), struck out reference to a determination of the quantity of sacks of grain.

Subsec. (e). Pub. L. 95-113, §1604(d)(1), designated as par. (4) provisions, formerly forming a part of par. (2), authorizing the Administrator to provide that grain loaded at an interior point in the United States into a rail car, barge, or other container as the final carrier in which it is to be transported from the United States be inspected in the manner provided in this subsection or subsec. (f) of this section, as the Administrator determines best meets the objectives of this chapter.

Subsec. (f)(2). Pub. L. 95-113, §1604(d)(2), substituted “official agency or State delegated authority pursuant to subsection (e)(2) of this section for carrying out the inspection provisions of this chapter” for “official agency for carrying out the provisions of this chapter”, struck out “, but this paragraph shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on August 15, 1968” after “section 74 of this title”, and redesignated other existing provisions as pars. (3) and (4).

Subsec. (f)(3). Pub. L. 95-113, §1604(d)(2)(B), (C), redesignated a portion of existing par. (2) as (3) and substituted “Except as authorized by the Administrator, no” for “No”.

Subsec. (f)(4). Pub. L. 95-113, §1604(d)(2)(D), redesignated a portion of existing par. (2) as (4).

Subsec. (g)(1). Pub. L. 95-113, §1604(d)(3), substituted “prescribed in subsection (f)” for “prescribed in subsections (e) and (f)”.

Subsec. (i). Pub. L. 95-113, §1604(d)(4), inserted provision that all or specified functions of the inspections be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Subsec. (j). Pub. L. 95-113, §1602(a), revised provisions relating to fees so as to remove requirement that field supervision of inspection be supported by fees.

1976—Subsec. (a). Pub. L. 94-582, §8(1), formerly §8(a)(1), as renumbered by Pub. L. 106-472, §110(a)(1), substituted “Administrator” for “Secretary”.

Subsec. (b). Pub. L. 94-582, §8(1), (2), formerly §8(a)(1), (2), as renumbered by Pub. L. 106-472, §110(a)(1), substituted “Administrator” for “Secretary” in two places and struck out from first sentence “or with respect to United States grain in Canadian ports” after “within the United States”.

Subsec. (c). Pub. L. 94-582, §8(1), (3), formerly §8(a)(1), (3), as renumbered by Pub. L. 106-472, §110(a)(1), substituted “Administrator” for “Secretary” in two places; and substituted “Service” for “Department of Agriculture” and “cancellation and surrender” for “cancellation” and required regulation provision for use of standard forms for official certificates, respectively.

Subsec. (d). Pub. L. 94-582, §8(4), formerly §8(a)(4), as renumbered by Pub. L. 106-472, §110(a)(1), substituted “Official certificates setting out the results of official inspection” for “Certificates”.

Subsec. (e). Pub. L. 94-582, §8(5), formerly §8(a)(5), as renumbered by Pub. L. 106-472, §110(a)(1), added subsec. (e) and struck out former subsec. (e) which authorized charging and collection of reasonable fees to cover cost of official inspection and to cover costs of Department of Agriculture incident to performance of appeal and Canadian port inspection services for which fees are collected, including supervisory and administrative

costs, and for deposit of fees and proceeds from sale of samples obtained for purposes of official inspection which become property of the United States into a fund to be available without fiscal year limitation for expenses of the Department of Agriculture incident to providing official inspection services. Fee provisions are now covered in subsec. (j)(2) of this section.

Subsec. (f). Pub. L. 94-582, §8(5), formerly §8(a)(5), as renumbered by Pub. L. 106-472, §110(a)(1), added par. (1) and second and third sentences of par. (2), and designated existing provisions as par. (2), substituting "one official agency for carrying out the provisions of this chapter shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title" for "one inspection agency for carrying out the provisions of this section shall be operative at one time for any one city, town, or other area".

Subsecs. (g) to (j). Pub. L. 94-582, §8(5), formerly §8(a)(5), as renumbered by Pub. L. 106-472, §110(a)(1), added subsecs. (g) to (j).

1968—Pub. L. 90-487 substituted provisions covering the authority and funding of official inspections for provisions covering the licensing of inspectors and the utilization by the Secretary of Agriculture of State inspectors.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-83, §1(b), Sept. 30, 2005, 119 Stat. 2053, provided that: "The amendments made by subsection (a) [amending this section and sections 79a, 79d, 87h, and 87j of this title] take effect on September 30, 2005."

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-472, title I, §111, Nov. 9, 2000, 114 Stat. 2061, provided that: "The amendments made by sections 103, 105, 108, and 109 [amending this section and sections 79a, 79d, 87h, and 87j of this title] shall take effect as if enacted on September 30, 2000."

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

That part of section 2 of Pub. L. 100-518 which provided that the amendment made by Pub. L. 100-518 was effective for period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed by Pub. L. 103-156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530, eff. Sept. 30, 1993.

EFFECTIVE AND TERMINATION DATES OF 1984 AMENDMENT

Section 2 of Pub. L. 98-469 provided that the amendment made by Pub. L. 98-469 is effective for period beginning Oct. 11, 1984, and ending Sept. 30, 1988.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENTS

Section 1113(b) of Pub. L. 97-98 provided that: "The provisions of this section [amending this section] shall become effective one hundred and eighty days after enactment of this Act [Dec. 22, 1981]."

Section 155 of Pub. L. 97-35, as amended by Pub. L. 98-469, §1, Oct. 11, 1984, 98 Stat. 1831, provided that the amendment made by Pub. L. 97-35 is effective for period beginning Oct. 1, 1981, and ending Sept. 30, 1988.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

INVESTIGATIONS AND STUDIES OF GRAIN INSPECTION AND WEIGHING IN INTERIOR OF UNITED STATES; COMPLETION OF STUDIES AND SUBMISSION OF REPORTS BY MAY 20, 1979, AND NOV. 20, 1979, RESPECTIVELY

Section 8(b) of Pub. L. 94-582, as amended by Pub. L. 95-113, title XVI, §§1605(a), 1607(a), Sept. 29, 1977, 91 Stat. 1029, 1031, which directed the Administrator of the Federal Grain Inspection Service, the Director of the Office of Investigation of the United States Department of Agriculture, and the Comptroller General of the United States to severally conduct investigations into and study grain inspection and weighing in the interior of the United States, and required the Administrator and Director to submit reports to Congress not later than 30 months after Oct. 21, 1976, and the Comptroller General to submit a report not later than three years after Oct. 21, 1976, was repealed by Pub. L. 106-472, title I, §110(a)(2), Nov. 9, 2000, 114 Stat. 2060.

§ 79a. Weighing authority

(a) Official weighing in accordance with prescribed regulations

The Secretary shall cause official weighing under standards or procedures provided for in section 76 of this title to be made of all grain required to be officially weighed as provided in section 77 of this title, in accordance with such regulations as the Secretary may prescribe.

(b) Official weighing or supervision of weighing at grain elevators, warehouses, or other storage or handling facilities located other than at export elevators at export port locations

The Secretary is authorized to cause official weighing or supervision of weighing under standards or procedures provided in section 76 of this title to be performed at any grain elevator, warehouse, or other storage or handling facility located other than at export elevators at export port locations at which official inspection is provided pursuant to the provisions of this chapter, in such manner as the Secretary deems appropriate and under such regulations as the Secretary may provide.

(c) Personnel performing official weighing or supervision of weighing at locations at which official inspection is provided

(1) With respect to official weighing or supervision of weighing for locations at which official inspection is provided by the Secretary, the Secretary shall cause such official weighing or supervision of weighing to be performed by official inspection personnel employed by the Secretary.

(2) With respect to official weighing or supervision of weighing for any location at which official inspection is provided other than by the Secretary, the Secretary is authorized, with respect to export port locations, to delegate authority to perform official weighing or supervision of weighing to the State agency providing official inspection service at such location, and with respect to any other location, to designate the agency or person providing official inspection service at such location to perform official weighing or supervision of weighing, if such agency or person qualifies for a delegation of authority or designation under section 79 of this

title, except that where the term “official inspection” is used in such section it shall be deemed to refer to “official weighing” or “supervision of weighing” under this section. If such agency or person is not available to perform such weighing services, or the Secretary determines that such agency or person is not qualified to perform such weighing services, then (A) at export port locations official weighing or supervision of weighing shall be performed by official inspection personnel employed by the Secretary, and (B) at any other location, the Secretary is authorized to cause official weighing or supervision of weighing to be performed by official inspection personnel employed by the Secretary or designate any State or local governmental agency, or any person to perform official weighing or supervision of weighing, if such agency or person meets the same criteria that agencies must meet to be designated to perform official inspection as set out in section 79 of this title, except that where the term “official inspection” is used in such section it shall be deemed to refer to “official weighing” or “supervision of weighing” under this section. Delegations and designations made pursuant to this subsection shall be subject to the same provisions for delegations and designations set forth in subsection (g) of section 79 of this title.

(d) Official weighing in Canadian ports

The Secretary is authorized to cause official weighing under this chapter to be made, as provided in subsection (a) of section 77 of this title, in Canadian ports of United States export grain transshipped through Canada; and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such official weighing. All or specified functions of such weighing shall be performed by official inspection personnel employed by the Secretary or, except for appeals, by persons operating under a contract with the Secretary or as otherwise provided by agreement with the Canadian Government.

(e) Official weighing or supervision of weighing upon request of operators of grain elevators, warehouses, or other storage or handling facilities

The Secretary is further authorized to cause official weighing or supervision of weighing under standards or procedures provided for in section 76 of this title to be made at grain elevators, warehouses, or other storage or handling facilities not subject to subsection (a) or (b) of this section, upon request of the operator of such grain elevator, warehouse, or other storage or handling facility and in accordance with such regulations as the Secretary may prescribe.

(f) Demonstrated willingness of operators of grain elevators, warehouses, or other storage or handling facilities to meet equipment and personnel requirements

No official weighing or supervision of weighing shall be provided for the purposes of this chapter at any grain elevator, warehouse, or other storage or handling facility until such time as the operator of the facility has demonstrated to the satisfaction of the Secretary that the operator (1) has and will maintain, in good order, suitable

grain-handling equipment and accurate scales for all weighing of grain at the facility, in accordance with the regulations of the Secretary; (2) will permit only competent persons with a reputation for honesty and integrity and who are approved by the Secretary to operate the scales and to handle grain in connection with weighing of the grain, in accordance with this chapter; (3) when weighing is to be done by persons other than official inspection personnel, will require such persons to operate the scales in accordance with the regulations of the Secretary and to require that each lot of grain for delivery from any railroad car, truck, barge, vessel, or other means of conveyance at the facility is entirely removed from such means of conveyance and delivered to the scales without avoidable waste or loss, and each lot of grain weighed at the elevator for shipment from the facility is entirely delivered to the means of conveyance for which intended, and without avoidable waste or loss, in accordance with the regulations of the Secretary; (4) will provide all assistance needed by the Secretary for making any inspection or examination and carrying out other functions at the facility pursuant to this chapter; and (5) will comply with all other requirements of this chapter and the regulations hereunder.

(g) Official certificates as evidence

Official certificates setting out the results of official weighing or supervision of weighing, issued and not cancelled under this chapter, shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the facts stated therein.

(h) Weighing prohibited when not in accordance with prescribed procedures

No State or local governmental agency or person shall weigh or state in any document the weight of grain determined at a location where official weighing is required to be performed as provided for in this section except in accordance with the procedures prescribed pursuant to this section.

(i) Unauthorized weighing prohibited

(1) In general

No State or local governmental agency or person other than an authorized employee of the Secretary shall perform official weighing or supervision of weighing for the purposes of this chapter except in accordance with the provisions of an unsuspended and unrevoked delegation of authority or designation by the Secretary as provided in this section or as otherwise provided in section 79(i) of this title and subsection (d) of this section.

(2) Geographic boundaries for official agencies

Not more than one designated official agency referred to in paragraph (1) or State agency delegated authority pursuant to subsection (c)(2) of this section to carry out the weighing provisions of this chapter shall be operative at the same time in any geographic area defined by the Secretary, except that, if the Secretary determines that the presence of more than one designated official agency in the same geographic area will not undermine the policy

stated in section 74 of this title, the Secretary may—

(A) allow more than one designated official agency to carry out the weighing provisions within the same geographical area as part of a pilot program; and

(B) allow a designated official agency to cross boundary lines to carry out the weighing provisions in another geographic area if the Secretary also determines that—

(i) the current designated official agency for that geographic area is unable to provide the weighing services in a timely manner; or

(ii) a person requesting weighing services in that geographic area has not been receiving official weighing services from the current designated official agency for that geographic area.

(j) Authority under United States Warehouse Act not limited

The provisions of this section shall not limit any authority vested in the Secretary under the United States Warehouse Act (39 Stat. 486, as amended; 7 U.S.C. 241 et seq.).

(k) Access to elevators, warehouses, or their storage or handling facilities

The representatives of the Secretary shall be afforded access to any elevator, warehouse, or other storage or handling facility from which grain is delivered for shipment in interstate or foreign commerce or to which grain is delivered from shipment in interstate or foreign commerce and all facilities therein for weighing grain.

(l) Fees; establishment, amount, payment, etc.

(1) The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees to cover the estimated costs to the Secretary incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Secretary incident to performance of its¹ functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 79(j) of this title.

(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Secretary fees in such amount as the Secretary determines fair and reasonable and as will cover the costs incurred by the Secretary relating to supervision of the agency personnel and supervision by the Secretary of the Secretary's field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under sections 79(g)(3), 85, 86, and 87c of this title. The fees shall be payable after the services are performed at such times as specified by the Secretary and shall be deposited in the fund created in section 79(j) of this title. Failure to pay the

fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Secretary, of the fee currently due plus interest and any further expenses incurred by the Secretary because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

(3) The authority provided to the Secretary by paragraph (1) and the duties imposed by paragraph (2) on agencies and other persons described in such paragraph shall expire on September 30, 2015. After that date, the Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees to cover the estimated costs of official weighing and supervision of weighing except when the official weighing or supervision of weighing is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Secretary incident to its performance of official weighing and supervision of weighing services in the United States and on United States grain in Canadian ports, excluding administrative and supervisory costs. The fees authorized by this paragraph shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Secretary incident to providing services under this chapter.

(Aug. 11, 1916, ch. 313, pt. B, §7A, as added Pub. L. 94-582, §9, Oct. 21, 1976, 90 Stat. 2875; amended Pub. L. 95-113, title XVI, §§1602(b), 1604(e), 1606(e), Sept. 29, 1977, 91 Stat. 1025, 1027, 1030; Pub. L. 97-35, title I, §155(2), Aug. 13, 1981, 95 Stat. 371; Pub. L. 100-518, §2(2), Oct. 24, 1988, 102 Stat. 2585; Pub. L. 103-156, §§4(b), 5(b), 12(e), 14(b), Nov. 24, 1993, 107 Stat. 1526, 1528, 1530; Pub. L. 103-354, title II, §293(a)(4), (7), (8), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 106-472, title I, §§102(b), 103(b), Nov. 9, 2000, 114 Stat. 2059, 2060; Pub. L. 109-83, §1(a), Sept. 30, 2005, 119 Stat. 2053.)

REFERENCES IN TEXT

The United States Warehouse Act, referred to in subsec. (j), is part C of act Aug. 11, 1916, ch. 313, 39 Stat. 486, as amended, which is classified generally to chapter 10 (§241 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 241 of this title and Tables.

AMENDMENTS

2005—Subsec. (l)(3). Pub. L. 109-83 substituted “2015” for “2005”.

2000—Subsec. (i). Pub. L. 106-472, §102(b), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, struck out second sentence, which prohibited more than one official agency or State delegated authority from operating at one time in any geographic area except as permitted in pilot programs, and added par. (2).

Subsec. (l)(3). Pub. L. 106-472, §103(b), substituted “2005” for “2000” in first sentence.

1994—Pub. L. 103-354 substituted “supervision by the Secretary of the Secretary's field office personnel” for

¹ So in original. Probably should be “the Secretary's”.

“supervision by Service personnel of its field office personnel” in first sentence of subsec. (l)(2) and substituted “Secretary” for “Administrator” and “Service” wherever appearing in subssecs. (a) to (f) and (i) to (l).

1993—Subsec. (c)(2). Pub. L. 103-156, § 4(b)(1), in second sentence, substituted “official weighing” or “supervision of weighing” for “supervision of weighing”.

Subsec. (d). Pub. L. 103-156, § 4(b)(2), inserted before period at end of second sentence “or as otherwise provided by agreement with the Canadian Government”.

Subsec. (e). Pub. L. 103-156, § 12(e), which directed amendment of “Section 7A(e)” by substituting “regulations as the Administrator” for “regulations as he”, without specifying the name of the Act being amended, was executed to this section, which is section 7A of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (i). Pub. L. 103-156, §§ 4(b)(3), 5(b), inserted before period at end of first sentence “or as otherwise provided in section 79(i) of this title and subsection (d) of this section” and inserted before period at end of second sentence “, except that the Administrator may conduct pilot programs to allow more than 1 official agency to carry out the weighing provisions within a single geographic area without undermining the policy stated in section 74 of this title”.

Subsec. (l)(3). Pub. L. 103-156, § 14(b), added par. (3).

1988—Subsec. (l). Pub. L. 100-518 amended subsec. (l) generally, substituting “cover the costs of the Service” for “cover the costs of the service” in par. (1).

1981—Subsec. (l). Pub. L. 97-35 temporarily designated existing provisions as par. (1), made changes in nomenclature, provided for inclusion, rather than exclusion, of administrative and supervisory costs, and struck out provisions respecting availability of deposited funds, and added par. (2). See Effective and Termination Dates of 1981 Amendment note below.

1977—Subsec. (a). Pub. L. 95-113, § 1606(e), substituted “standards or procedures” for “standards”.

Subsec. (b). Pub. L. 95-113, §§ 1604(e)(1), 1606(e), substituted “The Administrator is authorized to cause official weighing or supervision of weighing under standards or procedures” for “The Administrator is authorized to cause supervision of weighing under standards” and “other than at export elevators at export port locations” for “other than at export port locations”.

Subsec. (c)(2). Pub. L. 95-113, § 1604(e)(2), made technical amendments to conform par. (2) to increased authority granted in subsec. (b) to cause official weighing as well as supervision of weighing at interior inspection points and corrected a typographical error in which “number” had been erroneously used for “under” in text as originally enacted by Pub. L. 94-582.

Subsec. (d). Pub. L. 95-113, § 1604(e)(3), inserted requirement that all or specified functions of Canadian weighing be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.

Subsec. (e). Pub. L. 95-113, §§ 1604(e)(4), 1606(e), substituted “under standards or procedures provided” for “under standards provided” and struck out provisions which had required that the weighing service not be provided for periods of less than a year, that the fees therefor be set separately from the fees provided for in subsec. (l), and that they be reasonable, nondiscriminatory, and equal, as nearly as possible, to the cost of providing the service.

Subsec. (f)(2). Pub. L. 95-113, § 1604(e)(5)(A), substituted “permit only competent persons with a reputation for honesty and integrity and who are approved by the Administrator” for “employ only competent persons with a reputation for honesty and integrity”.

Subsec. (f)(3). Pub. L. 95-113, § 1604(e)(5)(B), substituted “when weighing is to be done by persons other than official inspection personnel, will require such persons to operate the scales” for “when weighing is to be done by employees of the facility, will require employees to operate the scales”.

Subsec. (g). Pub. L. 95-113, § 1604(e)(6), substituted “official weighing or supervision of weighing” for “official weighing”.

Subsec. (i). Pub. L. 95-113, § 1604(e)(7), (8), substituted “No State or local governmental agency” for “No State” and inserted provision that not more than one official agency or State delegated authority pursuant to subsection (c)(2) of this section for carrying out the weighing provisions of this chapter be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 74 of this title.

Subsec. (l). Pub. L. 95-113, § 1602(b), revised provisions relating to fees so as to remove requirement that field supervision of weighing be supported by fees.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 103(b) of Pub. L. 106-472 effective as if enacted Sept. 30, 2000, see section 111 of Pub. L. 106-472, set out as a note under section 79 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

That part of section 2 of Pub. L. 100-518 which provided that the amendment made by Pub. L. 100-518 was effective for period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed by Pub. L. 103-156, §§ 13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530, eff. Sept. 30, 1993.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 155 of Pub. L. 97-35, as amended by Pub. L. 98-469, § 1, Oct. 11, 1984, 98 Stat. 1831, provided that the amendment made by Pub. L. 97-35 is effective for period beginning Oct. 1, 1981, and ending Sept. 30, 1988.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as an Effective Date of 1976 Amendment note under section 74 of this title.

§ 79b. Testing of equipment

(a) Random and periodic testing at least annually; fees

The Secretary shall provide for the testing of all equipment used in the sampling, grading, inspection, and weighing for the purpose of official inspection, official weighing, or supervision of weighing of grain located at all grain elevators, warehouses, or other storage or handling facilities at which official inspection or weighing services are provided under this chapter, to be made on a random and periodic basis, under such regulations as the Secretary may prescribe, as the Secretary deems necessary to assure the accuracy and integrity of such equipment. Such regulations shall provide for the charging and collection of reasonable fees to cover the estimated costs to the Secretary incident to the performance of such testing by employees of the Secretary. Such fees shall be deposited into the fund created by section 79(j) of this title.

(b) Personnel to conduct testing

The Secretary is authorized to cause such testing provided for in subsection (a) of this section to be performed (1) by personnel employed by the Secretary, or (2) by States, political subdivisions thereof, or persons under the super-

vision of the Secretary, under such regulations as the Secretary may prescribe.

(c) Use of non-approved equipment prohibited

Notwithstanding any other provision of law, no person shall use for the purposes of this chapter any such equipment not approved by the Secretary.

(Aug. 11, 1916, ch. 313, pt. B, §7B, as added Pub. L. 94-582, §9, Oct. 21, 1976, 90 Stat. 2877; amended Pub. L. 95-113, title XVI, §1604(f), Sept. 29, 1977, 91 Stat. 1028; Pub. L. 103-156, §12(f), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103-354, title II, §293(a)(7), (8), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 106-472, title I, §104, Nov. 9, 2000, 114 Stat. 2060.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-472 struck out “but at least annually and” before “under such regulations” in first sentence.

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” and “Service” wherever appearing.

1993—Subsec. (a). Pub. L. 103-156, which directed amendment of “Section 7B(a)” by substituting “as the Administrator deems necessary” for “as he deems necessary”, without specifying the name of the Act being amended, was executed to this section, which is section 7B of the United States Grain Standards Act, to reflect the probable intent of Congress.

1977—Subsec. (a). Pub. L. 95-113, §1604(f)(1), (2), substituted “and weighing for the purpose of official inspection, official weighing, or supervision of weighing of grain located at all grain elevators” for “and weighing of grain located at all grain elevators” and inserted provisions that regulations provide for the charging and collection of reasonable fees to cover the estimated costs to the Service incident to the performance of testing by employees of the Service and that the fees be deposited into the fund created by section 79(j) of this title.

Subsec. (c). Pub. L. 95-113, §1604(f)(3), substituted “shall use for the purposes of this chapter” for “shall use”.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as an Effective Date of 1976 Amendment note under section 74 of this title.

§ 79c. Omitted

CODIFICATION

Section, act Aug. 11, 1916, ch. 313, pt. B, §7C, as added Aug. 13, 1981, Pub. L. 97-35, title I, §155(3), 95 Stat. 372; amended Oct. 11, 1984, Pub. L. 98-469, §2(2), 98 Stat. 1831, which limited the total administrative and supervisory costs which could be incurred under this chapter for fiscal years 1982 through 1988, was effective for the period Oct. 1, 1981, through Sept. 30, 1988, pursuant to section 155 of Pub. L. 97-35, as amended. See section 79d of this title.

§ 79d. Limitation on administrative and supervisory costs

The total administrative and supervisory costs which may be incurred under this chapter for services performed (excluding standardization, compliance, and foreign monitoring activities) for each of the fiscal years 1989 through

2015 shall not exceed 30 percent of the total costs for such activities carried out by the Secretary for such year.

(Aug. 11, 1916, ch. 313, pt. B, §7D, as added Pub. L. 100-518, §2(3), Oct. 24, 1988, 102 Stat. 2585; amended Pub. L. 103-156, §2, Nov. 24, 1993, 107 Stat. 1525; Pub. L. 103-354, title II, §293(a)(8), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 106-472, title I, §105, Nov. 9, 2000, 114 Stat. 2060; Pub. L. 109-83, §1(a), Sept. 30, 2005, 119 Stat. 2053.)

AMENDMENTS

2005—Pub. L. 109-83 substituted “2015” for “2005”.

2000—Pub. L. 106-472 substituted “2005” for “2000” and “30 percent” for “40 per centum”.

1994—Pub. L. 103-354 substituted “Secretary” for “Service”.

1993—Pub. L. 103-156 substituted “services performed” for “inspection and weighing” and “2000” for “1993”.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-472 effective as if enacted Sept. 30, 2000, see section 111 of Pub. L. 106-472, set out as a note under section 79 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-156 effective as of Sept. 30, 1993, see section 16(b) of Pub. L. 103-156, set out as a note under section 75 of this title.

EFFECTIVE AND TERMINATION DATES

That part of section 2 of Pub. L. 100-518 which provided that section was effective for the period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed by Pub. L. 103-156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530, eff. Sept. 30, 1993.

§§ 80 to 83. Omitted

CODIFICATION

Sections were omitted in the general reorganization of this chapter by Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 761.

Section 80, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, provided for revocation and suspension of licenses issued by the Secretary of Agriculture. See section 85 of this title.

Section 81, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, prohibited the existence of an interest, financial or otherwise, direct or indirect, on the part of inspectors in grain elevators or warehouses or in the merchandising of grain. See section 87 of this title.

Section 82, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, required maintenance of records and reports by inspectors. See section 87a of this title.

Section 83, act Aug. 11, 1916, ch. 313, pt. B, §7 (part), 39 Stat. 484, called for a semiannual report by the Secretary of Agriculture on the delivery of grain in the nation.

§ 84. Licensing of inspectors

(a) Authorization

The Secretary is authorized (1) to issue a license to any individual upon presentation to the Secretary of satisfactory evidence that such individual is competent, and is employed (or is supervised under a contractual arrangement) by an official agency or a State agency delegated authority under section 79 or 79a of this title, to perform all or specified functions involved in original inspection or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing, other

than appeal weighing, of grain in the United States; (2) to authorize any competent employee of the Secretary to (A) perform all or specified original inspection, reinspection, or appeal inspection functions involved in official inspection of grain in the United States, or of United States grain in Canadian ports, (B) perform official weighing or supervision of weighing (including appeal weighing) of grain in the United States, or of United States grain in Canadian ports, (C) supervise the official inspection, official weighing, or supervision of weighing of grain in the United States and of United States grain in Canadian ports or the testing of equipment, and (D) perform monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter; (3) to contract with any person or governmental agency to perform specified sampling, laboratory testing, inspection, weighing, and similar technical functions and to license competent persons to perform such functions pursuant to such contract; and (4) to contract with any competent person for the performance of monitoring activities in foreign ports with respect to grain officially inspected and officially weighed under this chapter. Except as otherwise provided in sections 79(i) and 79a(d) of this title, no person shall perform any official inspection or weighing function for purposes of this chapter unless such person holds an unsuspended and unrevoked license or authorization from the Secretary under this chapter.

(b) Duration of licenses; suspension; reinstatement

All classes of licenses issued under this chapter shall terminate triennially on a date or dates to be fixed by regulation of the Secretary: *Provided*, That any license shall be suspended automatically when the licensee ceases to be employed by an official agency or by a State agency under a delegation of authority pursuant to this chapter or to operate under the terms of a contract for the conduct of any functions under this chapter: *Provided further*, That subject to subsection (c) of this section such license shall be reinstated if the licensee is employed by an official agency or by a State agency under a delegation of authority pursuant to this chapter or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

(c) Examination of applicants; reexaminations

The Secretary may require such examinations and reexaminations as the Secretary may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Secretary, to perform any official inspection or weighing function under this chapter.

(d) Inspectors performing under contract not deemed Federal employees

Persons employed or supervised under a contractual arrangement by an official agency (including persons employed or supervised under a contractual arrangement by a State agency under a delegation of authority pursuant to this chapter) and persons performing official inspection functions under contract with the Secretary shall not, unless otherwise employed by

the Federal Government, be determined to be employees of the Federal Government of the United States: *Provided*, That such persons shall be considered in the performance of any official inspection, official weighing, or supervision of weighing function as prescribed by this chapter or by the rules and regulations of the Secretary, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18, to such persons and as employees of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of title 18.

(e) Hiring of official inspection personnel and supervisory personnel without regard to laws governing appointments to the competitive service

The Secretary may hire (without regard to the provisions of title 5 governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on October 21, 1976) to perform functions of official inspection under this chapter and as personnel to perform supervisory weighing or official weighing functions any individual who, on October 21, 1976, was performing similar functions: *Provided*, That the Secretary determines that such individual is of good moral character and is technically and professionally qualified for the duties to which the individual will be assigned. The Secretary may compensate such personnel at any rate within the appropriate grade of the General Schedule as the Secretary deems necessary without regard to section 5333 of title 5.

(f) Periodic rotation of personnel

The Secretary shall provide for the periodic rotation of supervisory personnel and official inspection personnel employed by the Secretary as the Secretary deems necessary to preserve the integrity of the official inspection and weighing system provided by this chapter.

(g) Recruitment, training, and supervision of personnel; work production standards; exemption for certain personnel

The Secretary shall develop and effectuate standards for the recruiting, training, and supervising of official inspection personnel and appropriate work production standards for such personnel, which shall be applicable to the Secretary, all State agencies under delegation of authority pursuant to this chapter, and all official agencies and all persons licensed or authorized to perform functions under this chapter: *Provided*, That persons licensed or authorized on October 21, 1976, to perform any official function under this chapter, shall be exempted from the uniform recruiting and training provisions of this subsection and regulations or standards issued pursuant thereto if the Secretary determines that such persons are technically and professionally qualified for the duties to which they will be assigned and they agree to complete whatever additional training the Secretary deems necessary.

(Aug. 11, 1916, ch. 313, pt. B, § 8, 39 Stat. 485; Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 764; Pub. L. 94-582, § 10, Oct. 21, 1976, 90 Stat. 2877; Pub. L. 95-113, title XVI, §§ 1604(g), 1606(f), Sept. 29, 1977,

91 Stat. 1028, 1030; Pub. L. 103-156, §§6, 12(g), Nov. 24, 1993, 107 Stat. 1526, 1528; Pub. L. 103-354, title II, §293(a)(7), (8), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 106-472, title I, §106, Nov. 9, 2000, 114 Stat. 2060.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (e), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (e), is set out under section 5332 of Title 5.

AMENDMENTS

2000—Subsec. (a)(3). Pub. L. 106-472 inserted “inspection, weighing,” after “laboratory testing.”

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” and “Service” wherever appearing.

1993—Pub. L. 103-156, §12(g), which directed amendment of “Section 8”, without specifying the name of the Act being amended, was executed to this section, which is section 8 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, §§6(1), 12(g)(1), in cl. (1), substituted “presentation to the Administrator” for “presentation to him” and inserted “(or is supervised under a contractual arrangement)” after “and is employed”, and in second sentence, substituted “Except as otherwise provided in sections 79(i) and 79a(d) of this title, no person” for “No person”.

Subsec. (b). Pub. L. 103-156, §6(2), substituted “under the terms of a contract for the conduct of any functions” for “independently under the terms of a contract for the conduct of any functions involved in official inspection”.

Subsec. (c). Pub. L. 103-156, §12(g)(2), substituted “the Administrator” for “he”.

Subsec. (d). Pub. L. 103-156, §6(3), inserted “or supervised under a contractual arrangement” after “Persons employed” and after “including persons employed”.

Subsec. (f). Pub. L. 103-156, §12(g)(2), substituted “the Administrator” for “he”.

1977—Subsec. (a)(1). Pub. L. 95-113, §1604(g)(1)(A), substituted “weighing, other than appeal weighing, of grain” for “weighing of grain”.

Subsec. (a)(2)(B). Pub. L. 95-113, §1604(g)(1)(B), substituted “weighing (including appeal weighing) of grain in the United States, or of United States grain in Canadian ports” for “weighing of grain”.

Subsec. (a)(3). Pub. L. 95-113, §1604(g)(1)(C), substituted “any person or governmental agency specified sampling, laboratory testing, and similar technical functions” for “any person to perform specified sampling and laboratory testing”.

Subsec. (e). Pub. L. 95-113, §1604(g)(2), inserted provisions authorizing the Administrator to compensate the personnel at any rate within the appropriate grade of the General Schedule as the Administrator deems necessary without regard to section 5333 of title 5.

Subsec. (f). Pub. L. 95-113, §1606(f), substituted “official inspection and weighing system” for “official inspection system”.

1976—Subsec. (a). Pub. L. 94-582 substituted “Administrator” for “Secretary” in two places; designated existing provisions as item (1) and substituted “official agency or a State agency delegated authority under section 79 or 79a of this title, to perform all or specified functions involved in original inspection or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing of grain in the United States” for “official inspection agency to perform all or specified functions involved in official inspection”; substituted provisions designated as item (2) for “to authorize any competent employee of the Department of Agriculture to perform all or specified functions involved in supervisory or appeal inspection or initial inspection of United States grain in Canadian ports”; inserted items (3) and (4); struck out

authorization to license any competent individual to perform specified functions involved in official inspection under a contract with the Department of Agriculture; and conditioned performance of any official weighing function on the holding of a license or authorization.

Subsec. (b). Pub. L. 94-582 substituted “Administrator” for “Secretary”, “official agency” for “official inspection agency” in two places, and “subsection (c)” for “paragraph (c)”, and inserted provision respecting employment of licensee by a State agency under a delegation of authority pursuant to this chapter in two places.

Subsec. (c). Pub. L. 94-582 substituted “Administrator” for “Secretary” and “Service” for “Department of Agriculture” and included performance of weighing function.

Subsec. (d). Pub. L. 94-582 substituted “official agency (including persons employed by a State agency under a delegation of authority pursuant to this chapter)” for “official inspection agency” and “contract with the Service” for “contracts with the Department of Agriculture” and inserted provision respecting status as persons acting for or on behalf of the United States in application of sections 118, 201, and 1114 of Title 18.

Subsecs. (e) to (g). Pub. L. 94-582 added subsecs. (e) to (g).

1968—Pub. L. 90-487 substituted provisions for the licensing and examination and reexamination of inspectors for provisions authorizing the Secretary of Agriculture to promulgate rules and regulations.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

§ 85. Suspension, revocation, and refusal to renew licenses; hearing; grounds; temporary suspension

The Secretary may refuse to renew, or may suspend or revoke, any license issued under this chapter whenever, after the licensee has been afforded an opportunity for a hearing, the Secretary shall determine that such licensee is incompetent, or has inspected or weighed or supervised the weighing of grain for purposes of this chapter, by any standard or criteria other than as provided for in this chapter, or has issued, or caused the issuance of, any false or incorrect official certificate or other official form, or has knowingly or carelessly inspected or weighed or supervised the weighing of grain improperly under this chapter, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has used the license or allowed it to be used for any improper purpose, or has otherwise violated any provision of this chapter or of the regulations prescribed or instructions issued to the licensee by the Secretary under this chapter. The Secretary may, without first affording the licensee an opportunity for a hearing, suspend any license temporarily pending final de-

termination whenever the Secretary deems such action to be in the best interests of the official inspection system under this chapter. The Secretary may summarily revoke any license whenever the licensee has been convicted of any offense prohibited by section 87b of this title or convicted of any offense proscribed by title 18, with respect to performance of functions under this chapter.

(Aug. 11, 1916, ch. 313, pt. B, §9, 39 Stat. 485; Aug. 1, 1956, ch. 812, 70 Stat. 780; Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 765; Pub. L. 94-582, §11, Oct. 21, 1976, 90 Stat. 2879; Pub. L. 103-156, §12(h), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103-354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, which directed amendment of “Section 9” by substituting “or has used the license” for “or has used his license” and “instructions issued to the licensee” for “instructions issued to him”, without specifying the name of the Act being amended, was executed to this section, which is section 9 of the United States Grain Standards Act, to reflect the probable intent of Congress.

1976—Pub. L. 94-582 substituted “Administrator” for “Secretary” wherever appearing and “inspected or weighed or supervised the weighing of” for “inspected” in two places and authorized summary revocation of licenses based on conviction of prescribed offenses.

1968—Pub. L. 90-487 substituted provisions authorizing the suspension, revocation, and refusal of renewal of licenses by the Secretary, for provisions setting out the penalties for violations of this chapter.

1956—Act Aug. 1, 1956, provided penalties for persons who knowingly sample grain improperly and for persons who knowingly or willfully cause or attempt to cause the issuance of a false grade certificate by deceptive loading, handling, or sampling of grain, or any other means.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

§ 86. Refusal of inspection and weighing services; civil penalties

(a) Grounds for refusal of services

The Secretary may (for such period, or indefinitely, as the Secretary deems necessary to effectuate the purposes of this chapter) refuse to provide official inspection or the services related to weighing otherwise available under this chapter with respect to any grain offered for such services, or owned, wholly or in part, by any person if the Secretary determines (1) that the individual (or in case such person is a partnership, any general partner; or in case such person is a corporation, any officer, director, or holder or owner of more than 10 per centum of the voting stock; or in case such person is an unincorporated association or other business entity, any officer or director thereof; or in case of any such business entity, any individual who is otherwise responsibly connected with the busi-

ness) has knowingly committed any violation of section 87b of this title, or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain, or that official inspection or the services related to weighing have been refused for any of the above-specified causes (for a period which has not expired) to such person, or any other person conducting a business with which the former was, at the time such cause existed, or is responsibly connected; and (2) that providing such service with respect to such grain would be inimical to the integrity of the service.

(b) Persons responsibly connected with a business

For purposes of subsection (a) of this section, a person shall be deemed to be responsibly connected with a business if the person was or is a partner, officer, director, or holder or owner of 10 per centum or more of its voting stock, or an employee in a managerial or executive capacity.

(c) Civil penalties

In addition to, or in lieu of, penalties provided under section 87c of this title, or in addition to, or in lieu of, refusal of official inspection or services related to weighing in accordance with this section, the Secretary may assess against any person who has knowingly committed any violation of section 87b of this title or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain a civil penalty not to exceed \$75,000 for each such violation as the Secretary determines is appropriate to effectuate the objectives stated in section 74 of this title.

(d) Opportunity for hearing; temporary refusal without hearing pending final determination

Before official inspection or services related to weighing is refused to any person or a civil penalty is assessed against any person under this section, such person shall be afforded opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5: *Provided*, That the Secretary may, without first affording the person a hearing, refuse official inspection or services related to weighing temporarily pending final determination whenever the Secretary has reason to believe there is cause for refusal of inspection or services related to weighing and considered such action to be in the best interest of the official inspection system under this chapter. The Secretary shall afford such person an opportunity for a hearing within seven days after temporarily refusing official inspection or services related to weighing; and such hearing and ancillary procedures related thereto shall be conducted in an expedited manner.

(e) Collection and disposition of civil penalties

Moneys received in payment of such civil penalties shall be deposited in the general fund of the United States Treasury. Upon any failure to pay the penalties assessed under this section, the Secretary may request the Attorney General of the United States to institute a civil action to collect the penalties in the appropriate court identified in subsection (h) of section 87f of this title for the jurisdiction in which the respondent is found or resides or transacts business, and

such court shall have jurisdiction to hear and decide any such action.

(Aug. 11, 1916, ch. 313, pt. B, § 10, 39 Stat. 485; Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 765; Pub. L. 94-582, § 12, Oct. 21, 1976, 90 Stat. 2879; Pub. L. 103-156, § 12(i), Nov. 24, 1993, 107 Stat. 1528; Pub. L. 103-354, title II, § 293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a), (c) to (e). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, § 12(i), which directed amendment of “Section 10”, without specifying the name of the Act being amended, was executed to this section, which is section 10 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, § 12(i)(1), substituted “the Administrator” for “he” in two places.

Subsec. (b). Pub. L. 103-156, § 12(i)(2), substituted “the person” for “he”.

1976—Subsec. (a). Pub. L. 94-582 substituted “Administrator” for “Secretary”, “grain offered for such services” for “grain offered for inspection”, “has knowingly committed any violation of section 87b of this title or has been convicted of any violation of other Federal law with respect to the handling, weighing, or official inspection of grain, or that official inspection or the services related to weighing have been refused” for “has been convicted of any violation of section 87b of this title, or that official inspection has been refused”, and “integrity of the service” for “integrity of the official inspection service”, and authorized refusal of provision of services relating to weighing.

Subsec. (c). Pub. L. 94-582 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94-582 redesignated provisions of former subsec. (c) as (d), inserted “or services related to weighing” before “is refused”, inserted “or a civil penalty is assessed against any person under this section” after “to any person”, provided for the hearing under sections 554, 556, and 557 of title 5, and inserted provisions relating to temporary refusal without hearing pending final determination.

Subsec. (e). Pub. L. 94-582 added subsec. (e).

1968—Pub. L. 90-487 substituted provisions authorizing the Secretary to refuse official inspection and affording an opportunity for a hearing in such a case, for provisions setting the penalty for interference with the execution of official duties.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

§ 87. Conflicts of interest

(a) Prohibition with respect to persons licensed or authorized by Secretary to perform official functions

No person licensed or authorized by the Secretary to perform any official function under this chapter, or employed by the Secretary in otherwise carrying out any of the provisions of this chapter, shall, during the term of such license, authorization, or employment, (a) be financially interested (directly or otherwise) in any business entity owning or operating any grain elevator or warehouse or engaged in the

merchandising of grain, or (b) be in the employment of, or accept gratuities from, any such entity, or (c) be engaged in any other kind of activity specified by regulation of the Secretary as involving a conflict of interest: *Provided, however*, That the Secretary may license qualified employees of any grain elevators or warehouses to perform official sampling functions, under such conditions as the Secretary may by regulation prescribe, and the Secretary may by regulation provide such other exceptions to the restrictions of this section as the Secretary determines are consistent with the purposes of this chapter.

(b) Prohibition with respect to personnel of official or State agencies and business or governmental entities related to such agencies; substantial stockholder; use of official inspection service; authority delegation; report to Congressional committees

(1) No official agency or a State agency delegated authority under this chapter, or any member, director, officer, or employee thereof, and no business or governmental entity related to any such agency, shall be employed in or otherwise engaged in, or directly or indirectly have any stock or other financial interest in, any business involving the commercial transportation, storage, merchandising, or other commercial handling of grain, or the use of official inspection service (except that in the case of a producer such use shall not be prohibited for grain in which the producer does not have an interest); and no business or governmental entity conducting any such business, or any member, director, officer, or employee thereof, and no other business or governmental entity related to any such entity, shall operate or be employed by or directly or indirectly have any stock or other financial interest in, any official agency or a State agency delegated inspection authority. Further, no substantial stockholder in any incorporated official agency shall be employed in or otherwise engaged in, or be a substantial stockholder in any corporation conducting any such business, or directly or indirectly have any other kind of financial interest in any such business; and no substantial stockholder in any corporation conducting such a business shall operate or be employed by or be a substantial stockholder in, or directly or indirectly have any other kind of financial interest in, any official agency.

(2) A substantial stockholder of a corporation shall be any person holding 2 per centum or more, or one hundred shares or more, of the voting stock of the corporation, whichever is the lesser interest. Any entity shall be considered to be related to another entity if it owns or controls, or is owned or controlled by, such other entity, or both entities are owned or controlled by another entity.

(3) Each State agency delegated official weighing authority under section 79a of this title and each State or local agency or other person designated by the Secretary under such section to perform official weighing or supervision of weighing shall be subject to the provisions of subsection (b) of this section. The term “use of official inspection service” shall be deemed to

refer to the use of the services provided under such a delegation or designation.

(4) If a State or local governmental agency is delegated authority to perform official inspection or official weighing or supervision of weighing, or a State or local governmental agency is designated as an official agency, the Secretary shall specify the officials and other personnel thereof to which the conflict of interest provisions of this subsection (b) apply.

(5) Notwithstanding the foregoing provisions of this subsection, the Secretary may delegate authority to a State agency or designate a governmental agency, board of trade, chamber of commerce, or grain exchange to perform official inspection or perform official weighing or supervision of weighing except that for purposes of supervision of weighing only, the Secretary may also designate any other person, if the Secretary determines that any conflict of interest which may exist between the agency or person or any member, director, officer, employee, or stockholder thereof and any business involving the transportation, storage, merchandising, or other handling of grain or use of official inspection or weighing service is not such as to jeopardize the integrity or the effective and objective operation of the functions performed by such agency. Whenever the Secretary makes such a determination and makes a delegation or designation to an agency that has a conflict of interest otherwise prohibited by this subsection, the Secretary shall, within thirty days after making such a determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, detailing the factual bases for such determination.

(c) Official agencies or State agencies not prevented from engaging in business of weighing grain

The provisions of this section shall not prevent an official agency or State agency delegated authority under this chapter from engaging in the business of weighing grain.

(Aug. 11, 1916, ch. 313, pt. B, §11, 39 Stat. 485; Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 766; Pub. L. 94-582, §13, Oct. 21, 1976, 90 Stat. 2880; Pub. L. 95-113, title XVI, §§1604(h), 1606(g), Sept. 29, 1977, 91 Stat. 1028, 1030; Pub. L. 103-156, §12(j), Nov. 24, 1993, 107 Stat. 1529; Pub. L. 103-354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 103-437, §4(a)(1), Nov. 2, 1994, 108 Stat. 4581.)

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (b)(5). Pub. L. 103-437 substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”.

1993—Pub. L. 103-156, §12(j), which directed amendment of “Section 11”, without specifying the name of the Act being amended, was executed to this section, which is section 11 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, §12(j)(1), substituted “the Administrator” for “he” before “determines”.

Subsec. (b)(1). Pub. L. 103-156, §12(j)(2)(A), substituted “the producer” for “he”.

Subsec. (b)(5). Pub. L. 103-156, §12(j)(2)(B), substituted “the Administrator” for “he” in two places.

1977—Subsec. (b)(3). Pub. L. 95-113, §1604(h)(1), substituted “to perform official weighing or supervision of weighing” for “to perform supervision of weighing”.

Subsec. (b)(4). Pub. L. 95-113, §1606(g), substituted “official weighing or supervision of weighing” for “official weighing”.

Subsec. (b)(5). Pub. L. 95-113, §1604(h)(2), substituted “to perform official inspection or perform official weighing or supervision of weighing except that” for “to perform official inspection or perform supervision of weighing except that” and “member, director, officer” for “member, officer”.

Subsec. (c). Pub. L. 95-113, §1604(h)(3), inserted “or State agency delegated authority under this chapter” after “official agency”.

1976—Subsec. (a). Pub. L. 94-582, §13(a)-(c), substituted “Administrator” for “Secretary” wherever appearing and “perform any official function” for “perform any official inspection function”, and designated first paragraph provisions, as amended, as subsec. (a), respectively.

Subsecs. (b), (c). Pub. L. 94-582, §13(c), added subsecs. (b) and (c).

1968—Pub. L. 90-487 substituted provisions prohibiting a conflict of interest on the part of inspectors who are interested financially in a grain elevator or in grain merchandising, for provisions covering the separability of provisions of this chapter.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-487, see section 2 of Pub. L. 90-487, set out as a note under section 78 of this title.

§ 87a. Records

(a) Samples of grain

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter shall maintain such samples of officially inspected grain and such other records as the Secretary may by regulation prescribe for the purpose of administration and enforcement of this chapter.

(b) Period of maintenance

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall keep such records for a period of five years after the inspection, weighing, or transaction, which is the subject of the record, occurred: *Provided*, That grain samples shall be required to be maintained only for such period not in excess of ninety days as the Secretary, after consultation with the grain trade and taking into account the needs and circumstances of local markets, shall prescribe; and in specific cases other records may be required by the Secretary to be maintained for not more than three years in addition to the five-year period whenever in the judgment of the Secretary the retention of such records for the longer period is necessary for the

effective administration and enforcement of this chapter.

(c) Access to records; audits

Every official agency, every State agency delegated authority under this chapter, and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter required to maintain records under this section shall permit any authorized representative of the Secretary or the Comptroller General of the United States to have access to, and to copy, such records at all reasonable times. The Secretary shall, from time to time, perform audits of official agencies and State agencies delegated authority of this chapter in such manner and at such periodic intervals as the Secretary deems appropriate.

(d) Maintenance of records by persons or entities receiving official inspection or weighing services; access to records and facilities

Every State, political subdivision thereof, or person who is the owner or operator of a commercial grain elevator, warehouse, or other storage or handling facility or is engaged in the merchandising of grain other than as a producer, and who, at any time, has obtained or obtains official inspection or weighing services shall maintain such complete and accurate records for such period of time as the Secretary may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter, and permit any authorized representative of the Secretary, at all reasonable times, to have access to, and to copy, such records and to have access to any grain elevator, warehouse, or other storage or handling facility used by such persons for handling of grain.

(Aug. 11, 1916, ch. 313, pt. B, §12, as added Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 766; amended Pub. L. 94-582, §14, Oct. 21, 1976, 90 Stat. 2882; Pub. L. 95-113, title XVI, §§1601, 1604(i), Sept. 29, 1977, 91 Stat. 1024, 1029; Pub. L. 103-156, §12(k), Nov. 24, 1993, 107 Stat. 1529; Pub. L. 103-354, title II, §293(a)(5)-(7), Oct. 13, 1994, 108 Stat. 3237.)

PRIOR PROVISIONS

A prior section 12 of act Aug. 11, 1916, ch. 313, pt. B, 39 Stat. 485, which appropriated a sum of \$250,000 for expenses of carrying into effect this chapter, was not classified to the Code.

AMENDMENTS

1994—Pub. L. 103-354 struck out “or Administrator” after “representative of the Secretary” in subsec. (c), struck out “or the Administrator” after “representative of the Secretary” in subsec. (d), and substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, §12(k), which directed amendment of “Section 12”, without specifying the name of the Act being amended, was executed to this section, which is section 12 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 103-156, §12(k)(1), substituted “the judgment of the Administrator” for “his judgment”.

Subsec. (c). Pub. L. 103-156, §12(k)(2), substituted “the Administrator” for “he”.

1977—Subsecs. (a), (b). Pub. L. 95-113, §1604(i)(1), inserted “, every State agency delegated authority under this chapter,” after “official agency”.

Subsec. (c). Pub. L. 95-113, §1604(i)(1), (2), inserted “, every State delegated authority under this chapter,” after “official agency” and corrected a typographical

error in Pub. L. 94-582 under which “delegate authority of this chapter” had been erroneously used instead of “delegated authority under this chapter”.

Subsec. (d). Pub. L. 95-113, §1601, substituted “shall maintain such complete and accurate records for such period of time as the Administrator may, by regulation, prescribe for the purpose of the administration and enforcement of this chapter” for “shall, within the five-year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, weighing, handling, treating, cleaning, drying, blending, and other processing, and official inspection and official weighing of grain.”.

1976—Subsec. (a). Pub. L. 94-582 substituted “official agency” for “official inspection agency” and “Administrator” for “Secretary” and inserted reference to licensed performance of official weighing or supervision of weighing function.

Subsec. (b). Pub. L. 94-582 substituted “Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter” for “Every official inspection agency” and “Administrator” for “Secretary” in two places, increased from two to five years the period of time for keeping the records, and inserted provision for keeping the records after the weighing.

Subsec. (c). Pub. L. 94-582 substituted “Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this chapter” for “Every official inspection agency”, provided for access to and the copying of records by any authorized representative of the Administrator or the Comptroller General, and required Administrator audits of official agencies and State agencies delegate authority.

Subsec. (d). Pub. L. 94-582 added subsec. (d).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

MAINTENANCE OF RECORDS NOT INVOLVING OFFICIAL INSPECTION OR OFFICIAL WEIGHING

Pub. L. 103-111, title I, Oct. 21, 1993, 107 Stat. 1055, provided in part: “That hereafter, none of the funds available to the Federal Grain Inspection Service may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 [see Short Title of 1976 Amendment note set out under section 71 of this title] other than those necessary to fulfill the purposes of such Act.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-341, title I, Aug. 14, 1992, 106 Stat. 883.

Pub. L. 102-142, title I, Oct. 28, 1991, 105 Stat. 887.

Pub. L. 101-506, title I, Nov. 5, 1990, 104 Stat. 1324.

Pub. L. 101-161, title I, Nov. 21, 1989, 103 Stat. 960.

Pub. L. 100-460, title I, Oct. 1, 1988, 102 Stat. 2238.

§ 87b. Prohibited acts

(a) No person shall—

(1) knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official mark;

(2) knowingly utter, publish, or use as true any falsely made, issued, altered, forged, or counterfeited official certificate or other official form or official mark, or knowingly possess, without promptly notifying the Secretary or the representative of the Secretary, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official certificate or other official form, or any device for making any official mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official mark without promptly giving such notice;

(3) knowingly cause or attempt (whether successfully or not) to cause the issuance of a false or incorrect official certificate or other official form by any means, including but not limited to deceptive loading, handling, weighing, or sampling of grain, or submitting grain for official inspection or official weighing or supervision of weighing knowing that it has been deceptively loaded, handled, weighed, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling or official weighing or supervision of weighing;

(4) alter any official sample of grain in any manner or, knowing that an official sample has been altered, thereafter represent it as an official sample;

(5) knowingly use any official grade designation or official mark on any container of grain by means of a tag, label, or otherwise, unless the grain in such container was officially inspected on the basis of an official sample taken while the grain was being loaded into or was in such container or officially weighed, respectively, and the grain was found to qualify for such designation or mark;

(6) knowingly make any false representation that any grain has been officially inspected, or officially inspected and found to be of a particular kind, class, quality, or condition, or that particular facts have been established with respect to grain by official inspection under this chapter, or that any weighing service under this chapter has been performed with respect to grain;

(7) improperly influence, or attempt to improperly influence, any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this chapter or any officer or employee of the Department of Agriculture with respect to the performance of the duties of the officer, employee, or other person under this chapter;

(8) forcibly assault, resist, oppose, impede, intimidate, or interfere with any official inspection personnel or personnel of agencies delegated authority or of agencies or other persons designated under this chapter or any officer or employee of the Department of Agriculture in, or on account of, the performance of the duties of the officer, employee, or other person under this chapter;

(9) falsely represent that the person is licensed or authorized to perform an official inspection or official weighing or supervision of weighing function under this chapter;

(10) use any false or misleading means in connection with the making or filing of an application for official inspection or official weighing or supervision of weighing;

(11) violate section 77, 78, 79, 79a, 79b, 84, 87, 87a, 87e, or 87f-1 of this title;

(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce by any means, including, but not limited to, the use of inaccurate, faulty, or defective weighing equipment; or

(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in grain, or the authorized agent of any such person, from observing the loading of the grain inspected under this chapter and the weighing, sampling, and inspection of such grain under conditions prescribed by the Secretary.

(b) No person licensed or authorized to perform any function under this chapter shall—

(1) commit any offense prohibited by subsection (a) of this section;

(2) knowingly perform improperly any official sampling or other official inspection or weighing function under this chapter;

(3) knowingly execute or issue any false or incorrect official certificate or other official form; or

(4) accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty.

(c) An offense shall be deemed to have been committed knowingly under this chapter if it resulted from gross negligence or was committed with knowledge of the pertinent facts.

(d)(1) Subject to paragraphs (2) and (3), to ensure the quality of grain marketed in or exported from the United States—

(A) no dockage or foreign material, as defined by the Secretary, once removed from grain shall be recombined with any grain; and

(B) no dockage or foreign material of any origin may be added to any grain.

(2) Nothing in paragraph (1) shall be construed to prohibit—

(A) the treatment of grain to suppress, destroy, or prevent insects and fungi injurious to stored grain;

(B) the marketing, domestically or for export, of dockage or foreign material removed from grain if such dockage or foreign material is marketed—

(i) separately and uncombined with any such whole grain;

(ii) in pelletized form; or

(iii) as a part of a processed ration for livestock, poultry, or fish;

(C) the blending of grain with similar grain of a different quality to adjust the quality of the resulting mixture;

(D) the recombination of broken corn or broken kernels, as defined by the Secretary, with grain of the type from which the broken corn or broken kernels were derived;

(E) effective for the period ending December 31, 1987, the recombination of dockage or foreign material, except dust, removed at an ex-

port loading facility from grain destined for shipment as a cargo under one export official certificate of inspection if—

- (i) the recombination occurs during the loading of the cargo;
- (ii) the purpose is to ensure uniformity of dockage or foreign material throughout that specific cargo; and
- (iii) the separation and recombination are conducted in accordance with regulations issued by the Secretary; or

(F) the addition to grain of a dust suppressant, or the addition of confetti or any other similar material that serves the same purpose in a quantity necessary to facilitate identification of ownership or origin of a particular lot of grain.

(3)(A) The Secretary may, by regulation, exempt from paragraph (1) the last handling of grain in the final sale and shipment of such grain to a domestic user or processor if such exemption is determined by the Secretary to be in the best economic interest of producers, grain merchants, the industry involved, and the public.

(B) Grain sold under an exemption authorized by this paragraph shall be consumed or processed into one or more products by the purchaser, but may not be resold into commercial channels for such grain or blended with other grain for resale. Neither products nor byproducts derived therefrom (except vegetable oils as defined by the Secretary and used as a dust suppressant) shall be blended with or added to grain in commercial channels.

(e)(1) The Secretary may prohibit the contamination of sound and pure grain, or prohibit disguising the quality of grain, as a result of the introduction of—

- (A) nongrain substances;
- (B) grain unfit for ordinary commercial purposes; or
- (C) grain that exceeds action limits established by the Food and Drug Administration or grain having residues that exceed the tolerance levels established by the Environmental Protection Agency.

(2) No prohibition imposed under this section shall be construed to restrict the marketing of any grain so long as the grade or condition of the grain is properly identified.

(3) Prior to taking action under this subsection, the Secretary shall promulgate regulations after providing for notice and an opportunity for public comment, that identify and define actions and conditions that are subject to prohibition.

(4) In no case shall the Secretary prohibit the blending of an entire grade of grain.

(5) In implementing paragraph (1)(C), the Secretary shall report any prohibitions to other appropriate public health agencies.

(Aug. 11, 1916, ch. 313, pt. B, §13, as added Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 766; amended Pub. L. 94-582, §15, Oct. 21, 1976, 90 Stat. 2883; Pub. L. 95-113, title XVI, §§1604(j), 1606(h), Sept. 29, 1977, 91 Stat. 1029, 1030; Pub. L. 99-641, title III, §303(a), Nov. 10, 1986, 100 Stat. 3564; Pub. L. 101-624, title XX, §2008, Nov. 28, 1990, 104 Stat.

3931; Pub. L. 103-156, §§7, 12(l), Nov. 24, 1993, 107 Stat. 1526, 1529; Pub. L. 103-354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 106-472, title I, §107, Nov. 9, 2000, 114 Stat. 2060.)

AMENDMENTS

2000—Subsec. (e)(1). Pub. L. 106-472 inserted “, or prohibit disguising the quality of grain,” after “sound and pure grain” in introductory provisions.

1994—Subsecs. (a)(2), (13), (d)(2)(D), (E)(iii), (e)(1), (3) to (5). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, §12(l), which directed amendment of “Section 13”, without specifying the name of the Act being amended, was executed to this section, which is section 13 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 103-156, §12(l)(1), substituted “the representative of the Administrator” for “his representative”.

Subsec. (a)(7), (8). Pub. L. 103-156, §12(l)(2), substituted “the duties of the officer, employee, or other person” for “his duties”.

Subsec. (a)(9). Pub. L. 103-156, §12(l)(3), substituted “the person” for “he”.

Subsec. (a)(11). Pub. L. 103-156, §7, amended par. (11) generally. Prior to amendment, par. (11) read as follows: “violate any provision of section 77; 78; 79(f)(2), (3), or (4); 79a; 79b(c); 84; 87; 87a; or 87f-1 of this title;”.

1990—Subsec. (e). Pub. L. 101-624 added subsec. (e).

1986—Subsec. (d). Pub. L. 99-641 added subsec. (d).

1977—Subsec. (a)(6). Pub. L. 95-113, §§1604(j)(1), 1606(h), substituted “or condition” for “condition, or quantity” and inserted “, or that any weighing service under this chapter has been performed with respect to grain” after “official inspection under this chapter”.

Subsec. (a)(11). Pub. L. 95-113, §1604(j)(2), inserted references to sections 79(f)(3) and (4) and 87f-1 of this title.

Subsec. (a)(12). Pub. L. 95-113, §1604(j)(3), substituted “weighing equipment” for “testing equipment”.

Subsec. (a)(13). Pub. L. 95-113, §1604(j)(4), substituted “financial interest in grain” for “financial interest in the grain” and “loading of the grain” for “loading of grain”.

1976—Subsec. (a)(1). Pub. L. 94-582, §15(a)(1), substituted “official mark” for “official inspection mark”.

Subsec. (a)(2). Pub. L. 94-582, §15(a)(2), substituted “official mark” for “official inspection mark” in three places, “official certificate” for “official inspection certificate” and “Administrator” for “Secretary”.

Subsec. (a)(3). Pub. L. 94-582, §15(a)(2), prohibited deceptive weighing of grain or submitting grain for official weighing or supervision of weighing knowing it has been deceptively weighed without disclosure before official weighing or supervision of weighing.

Subsec. (a)(5). Pub. L. 94-582, §15(a)(3), substituted “official mark” for “official inspection mark” and inserted “or officially weighed, respectively,” after “such container”.

Subsecs. (a)(7), (8). Pub. L. 94-582, §15(a)(4), inserted “or personnel of agencies delegated authority or of agencies or other persons designated under this chapter” after “personnel”.

Subsec. (a)(9). Pub. L. 94-582, §15(a)(5), inserted “or official weighing or supervision of weighing” after “official inspection”.

Subsec. (a)(10). Pub. L. 94-582, §15(a)(5), (6), inserted “or official weighing or supervision of weighing” after “official inspection” and struck out “or” at end.

Subsec. (a)(11). Pub. L. 94-582, §15(a)(5), inserted after “sections 77, 78,” references to “79(f)(2), 79a, 79b(c)”.

Subsecs. (a)(12), (13). Pub. L. 94-582, §15(a)(6), added pars. (12) and (13).

Subsec. (b)(2). Pub. L. 94-582, §15(b), substituted “inspection or weighing function” for “inspection function”.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 303(b) of Pub. L. 99-641 provided that: “The amendments made by this section [amending this section] shall become effective on May 1, 1987.”

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

BENEFITS AND COSTS ASSOCIATED WITH IMPROVED GRAIN QUALITY

Administrator of Federal Grain Inspection Service to estimate economic impact, including benefits and costs and distribution of such benefits and costs, of any major changes necessary to carry out amendments to this section by title XX of Pub. L. 101-624 prior to making such changes, see section 2003 of Pub. L. 101-624, set out as a note under section 76 of this title.

§ 87c. Criminal penalties

(a) Any person who commits any offense prohibited by section 87b of this title (except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case the person shall be subject to the general penal statutes in title 18 relating to crimes and offenses against the United States) shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than \$20,000, or both such imprisonment and fine.

(b) Nothing in this chapter shall be construed as requiring the Secretary to report minor violations of this chapter for criminal prosecution whenever the Secretary believes that the public interest will be adequately served by a suitable written notice or warning, or to report any violation of this chapter for prosecution when the Secretary believes that institution of a proceeding under section 86 of this title will obtain compliance with this chapter and the Secretary institutes such a proceeding.

(c) Any officer or employee of the Department of Agriculture assigned to perform weighing functions under this chapter shall be considered as an employee of the Department of Agriculture assigned to perform inspection functions for the purposes of sections 1114 and 111 of Title 18.

(Aug. 11, 1916, ch. 313, pt. B, §14, as added Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 767; amended Pub. L. 94-582, §17, Oct. 21, 1976, 90 Stat. 2884; Pub. L. 103-156, §§8, 12(m), Nov. 24, 1993, 107 Stat. 1527, 1529; Pub. L. 103-354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-156, §12(m), which directed amendment of “Section 14”, without specifying the name of the Act being amended, was executed to this section, which is section 14 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 103-156, §§8, 12(m)(1), substituted “the person” for “he”, and struck out “shall be guilty of a misdemeanor and shall, on conviction thereof, be

subject to imprisonment for not more than twelve months, or a fine of not more than \$10,000, or both such imprisonment and fine; but, for each subsequent offense subject to this subsection, such person” before “shall be guilty of a felony”.

Subsec. (b). Pub. L. 103-156, §12(m)(2), substituted “the Administrator” for “he” in three places.

1976—Subsec. (a). Pub. L. 94-582 inserted “(except an offense prohibited by paragraphs (a)(7), (a)(8), and (b)(4) in which case he shall be subject to the general penal statutes in Title 18 relating to crimes and offenses against the United States)”, increased the punishment for misdemeanors from six months to twelve months and the fine from \$3,000 to \$10,000, and denominated subsequent offenses as felonies, substituting “but, for each subsequent offense subject to this subsection, such person shall be guilty of a felony and shall, on conviction thereof, be subject to imprisonment for not more than five years, or a fine of not more than \$20,000, or both such imprisonment and fine” for “but if such offense is committed after one conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year, or a fine of not more than \$5,000, or both such imprisonment and fine”.

Subsec. (b). Pub. L. 94-582 substituted “Administrator” for “Secretary” and inserted provision that nothing in this chapter shall be construed as requiring the Administrator to report any violation of this chapter for prosecution when he believes that institution of a proceeding under section 86 of this title will obtain compliance with this chapter and he institutes such a proceeding.

Subsec. (c). Pub. L. 94-582 added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

§ 87d. Responsibility for acts of others

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of the employment or office of the official, agent, or other person shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

(Aug. 11, 1916, ch. 313, pt. B, §15, as added Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 768; amended Pub. L. 103-156, §12(n), Nov. 24, 1993, 107 Stat. 1529.)

AMENDMENTS

1993—Pub. L. 103-156, which directed amendment of “Section 15” by substituting “the employment or office of the official, agent, or other person” for “his employment or office”, without specifying the name of the Act being amended, was executed to this section, which is section 15 of the United States Grain Standards Act, to reflect the probable intent of Congress.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

§ 87e. General authorities**(a) Authority of Secretary**

The Secretary is authorized to conduct such investigations; hold such hearings; require such reports from any official agency, any State agency delegated authority under this chapter, licensee, or other person; and prescribe such rules, regulations, and instructions, as the Secretary deems necessary to effectuate the purposes or provisions of this chapter. Such regulations may require, as a condition for official inspection or official weighing or supervision of weighing, among other things, (1) that there be installed specified sampling, handling, weighing, and monitoring equipment in grain elevators, warehouses, and other grain storage or handling facilities, (2) that approval of the Secretary be obtained as to the condition of vessels and other carriers or receptacles for the transporting or storing of grain, and (3) that persons having a financial interest in the grain which is to be inspected (or their agents) shall be afforded an opportunity to observe the weighing, loading, and official inspection thereof, under conditions prescribed by the Secretary. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this chapter shall be determined by tests made in accordance with such procedures as the Secretary may adopt to effectuate the objectives of this chapter, if the relevant facts are determinable by such tests. Proceedings under section 85 of this title for refusal to renew, or for suspension or revocation of, a license shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5.

(b) Investigation of reports or complaints of discrepancies and abuses in official inspection or weighing of grain

The Secretary is authorized to investigate reports or complaints of discrepancies and abuses in the official inspection and weighing of grain under this chapter. The Secretary shall prescribe by regulation procedures for (1) promptly investigating (A) complaints of foreign grain purchasers regarding the official inspection or official weighing of grain shipped from the United States, (B) the cancellation of contracts for the export sale of grain required to be inspected or weighed under this chapter, and (C) any complaint regarding the operation or administration of this chapter or any official transaction with which this chapter is concerned; and (2) taking appropriate action on the basis of the findings of any investigation of such complaints.

(c) Monitoring of United States grain upon its entry into foreign nations

The Secretary is authorized to cause official inspection personnel to monitor in foreign nations which are substantial importers of grain from the United States, grain imported from the United States upon its entry into the foreign nation, to determine whether such grain is of a comparable kind, class, quality, and condition after considering the handling methods and conveyance utilized at the time of loading, and the

same quantity that it was certified to be upon official inspection and official weighing in the United States.

(d) Authority of Office of Investigation of Department of Agriculture

The Office of Investigation of the Department of Agriculture (or such other organization or agency within the Department of Agriculture which may be delegated the authority, in lieu thereof, to conduct investigations on behalf of the Department of Agriculture) shall conduct such investigations regarding the operation or administration of this chapter or any official transaction with which this chapter is concerned, as the Director thereof deems necessary to assure the integrity of official inspection and weighing under this chapter.

(e) Research program to develop methods of improving accuracy and uniformity in grading grain

The Secretary is authorized to conduct, in cooperation with other agencies within the Department of Agriculture, a continuing research program for the purpose of developing methods to improve accuracy and uniformity in grading grain.

(f) Adequate personnel to meet inspection and weighing requirements

To assure the normal movement of grain at all inspection points in a timely manner consistent with the policy expressed in section 74 of this title, the Secretary shall, notwithstanding any other provision of law, provide adequate personnel to meet the inspection and weighing requirements of this chapter.

(g) Testing of certain weighing equipment

(1) Subject to paragraph (2), the Secretary may provide for the testing of weighing equipment used for purposes other than weighing grain. The testing shall be performed—

(A) in accordance with such regulations as the Secretary may prescribe; and

(B) for a reasonable fee established by regulation or contractual agreement and sufficient to cover, as nearly as practicable, the estimated costs of the testing performed.

(2) Testing performed under paragraph (1) may not conflict with or impede the objectives specified in section 74 of this title.

(h) Testing of grain inspection instruments

(1) Subject to paragraph (2), the Secretary may provide for the testing of grain inspection instruments used for commercial inspection. The testing shall be performed—

(A) in accordance with such regulations as the Secretary may prescribe; and

(B) for a reasonable fee established by regulation or contractual agreement and sufficient to cover, as nearly as practicable, the estimated costs of the testing performed.

(2) Testing performed under paragraph (1) may not conflict with or impede the objectives specified in section 74 of this title.

(i) Additional for fee services

(1) In accordance with such regulations as the Secretary may provide, the Secretary may per-

form such other services as the Secretary considers to be appropriate.

(2) In addition to the fees authorized by sections 79, 79a, 79b, and 87f-1 of this title, and this section, the Secretary shall collect reasonable fees to cover the estimated costs of services performed under paragraph (1) other than standardization and foreign monitoring activities.

(3) To the extent practicable, the fees collected under paragraph (2), together with any proceeds from the sale of any samples, shall cover the costs, including administrative and supervisory costs, of services performed under paragraph (1).

(j) Deposit of fees

Fees collected under subsections (g), (h), and (i) of this section shall be deposited into the fund created under section 79(j) of this title.

(k) Official courtesies

The Secretary may extend appropriate courtesies to official representatives of foreign countries in order to establish and maintain relationships to carry out the policy stated in section 74 of this title. No gift offered or accepted pursuant to this subsection shall exceed \$20 in value.

(Aug. 11, 1916, ch. 313, pt. B, §16, as added Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 768; amended Pub. L. 94-582, §18, Oct. 21, 1976, 90 Stat. 2884; Pub. L. 95-113, title XVI, §§1604(k), 1606(i), Sept. 29, 1977, 91 Stat. 1029, 1030; Pub. L. 102-237, title X, §1007(2), Dec. 13, 1991, 105 Stat. 1897; Pub. L. 103-156, §9, Nov. 24, 1993, 107 Stat. 1527; Pub. L. 103-354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a) to (c), (e) to (i), (k). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Subsec. (b). Pub. L. 103-156, §9(1), struck out at end “The Administrator shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at the end of every three-month period with respect to investigative action taken on complaints, during the immediately preceding three-month period.”

Subsecs. (g) to (k). Pub. L. 103-156, §9(2), added subsections. (g) to (k).

1991—Subsec. (a). Pub. L. 102-237 substituted “Administrator” for “Administrtror” at end of second sentence.

1977—Subsec. (a). Pub. L. 95-113, §1604(k)(1), rearranged existing provisions and inserted references to the installation of handling and weighing equipment and to warehouses and other grain storage or handling facilities.

Subsec. (b). Pub. L. 95-113, §1606(i), substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”.

Subsec. (f). Pub. L. 95-113, §1604(k)(2), struck out “additional” before “inspection and weighing requirements”.

1976—Subsec. (a). Pub. L. 94-582 substituted authorizations of “Administrator” for authorizations of “Secretary”, “official agency” for “official inspection agency”, and “other person” for “any person” respecting reporting requirement, required reports from State agencies delegated authority under this chapter and from licensees, inserted items (1) to (3) relating to conditions for official inspection, authorized issuance of instructions, and struck out reference to section 86 of this title, including proceedings for refusal of official in-

spection service not required by section 77 of this title, as not being subject to administrative procedure provisions.

Subsecs. (b) to (f). Pub. L. 94-582 added subsections. (b) to (f).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

TEMPORARY EXERCISE BY SECRETARY OF AGRICULTURE OF POWERS, DUTIES, AND AUTHORIZATIONS OF ADMINISTRATOR PENDING APPOINTMENT OF ADMINISTRATOR

Powers, duties, and authorizations of the Administrator of the Federal Grain Inspection Service to be exercised by the Secretary of Agriculture pending the appointment of the Administrator, see section 25 of Pub. L. 94-582, set out as a note under section 75a of this title.

§ 87e-1. Repealed. Pub. L. 106-472, title I, § 110(b), Nov. 9, 2000, 114 Stat. 2061

Section, Pub. L. 94-582, §23, Oct. 21, 1976, 90 Stat. 2888, authorized purchase or lease of inspection equipment.

§ 87f. Enforcement provisions

(a) Subpena power

For the purposes of this chapter, the Secretary shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person with respect to whom such authority is exercised; and the Secretary shall have power to require by subpena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation by the Secretary, and may administer oaths and affirmations, examine witnesses, and receive evidence.

(b) Disobedience of subpena

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. In case of disobedience to a subpena the Secretary may invoke the aid of any court designated in subsection (h) of this section in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(c) Court order requiring attendance and testimony of witnesses

Any such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear before the Secretary or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Fees and mileage costs of witnesses

Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses from whom depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(e) Violation of subpoena as misdemeanor

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in the power of the person to do so, in obedience to the subpoena or lawful requirement of the Secretary, shall be guilty of a misdemeanor, and upon conviction thereof be subject to imprisonment for not more than 1 year or a fine of not more than \$10,000 or both the imprisonment and fine.

(f) Repealed. Pub. L. 91-452, title II, § 203, Oct. 15, 1970, 84 Stat. 928**(g) Repealed. Pub. L. 94-582, § 19(d), Oct. 21, 1976, 90 Stat. 2886****(h) District court jurisdiction**

The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions of the United States shall have jurisdiction in cases arising under this chapter.

(Aug. 11, 1916, ch. 313, pt. B, §17, as added Pub. L. 90-487, §1, Aug. 15, 1968, 82 Stat. 768; amended Pub. L. 91-452, title II, §203, Oct. 15, 1970, 84 Stat. 928; Pub. L. 94-582, §19, Oct. 21, 1976, 90 Stat. 2885; Pub. L. 103-156, §§10, 12(o), Nov. 24, 1993, 107 Stat. 1528, 1529; Pub. L. 103-354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a) to (e). Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Subsec. (e). Pub. L. 103-156, §12(o), which directed amendment of “Section 17(e)” by substituting “the power of the person” for “his power”, without specifying the name of the Act being amended, was executed to this section, which is section 17 of the United States Grain Standards Act, to reflect the probable intent of Congress.

Pub. L. 103-156, §10, substituted “imprisonment for not more than 1 year or a fine of not more than \$10,000 or both the imprisonment and fine” for “the penalties set forth in subsection (a) of section 87c of this title”.

1976—Subsec. (a). Pub. L. 94-582, §19(a), (b), substituted “Administrator” for “Secretary” in two places and inserted “by the Administrator” after “under investigation”, respectively.

Subsecs. (b) to (d). Pub. L. 94-582, §19(a), substituted “Administrator” for “Secretary” in subsecs. (b) to (d).

Subsec. (e). Pub. L. 94-582, §19(a), (c), substituted “Administrator” for “Secretary” and inserted “subsection (a) of” before “section 87c of this title”.

Subsec. (g). Pub. L. 94-582, §19(d), struck out subsec. (g) which made unlawful disclosure of information by an officer or employee of the Department of Agriculture a misdemeanor, subject to the penalties set forth in section 87c of this title.

1970—Subsec. (f). Pub. L. 91-452 struck out subsec. (f) which related to the immunity from prosecution of any individual compelled to testify or produce evidence,

documentary or otherwise, after having claimed his privilege against self-incrimination.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-452, and amendment not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out as an Effective Date; Savings Provision note under section 6001 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

§ 87f-1. Registration requirements**(a) General requirement**

The Secretary shall provide, by regulation, for the registration of all persons engaged in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain for sale in foreign commerce. This section shall not apply to—

(1) any person who only incidentally or occasionally buys for sale, or handles, weighs, or transports grain for sale and is not engaged in the regular business of buying grain for sale, or handling, weighing, or transporting grain for sale;

(2) any producer of grain who only incidentally or occasionally sells or transports grain which the producer has purchased;

(3) any person who transports grain for hire and does not own a financial interest in such grain; or

(4) any person who buys grain for feeding or processing and not for the purpose of reselling and only incidentally or occasionally sells such grain as grain.

(b) Required information

(1) All persons required to register under this chapter shall submit the following information to the Secretary:

(A) the name and principal address of the business,

(B) the names of all directors of such business,

(C) the names of the principal officers of such business,

(D) the names of all persons in a control relationship with respect to such business,

(E) a list of locations where the business conducts substantial operations, and

(F) such other information as the Secretary deems necessary to carry out the purposes of this chapter.

Persons required to register under this section shall also submit to the Secretary the information specified in clauses (A) through (F) of this paragraph with respect to any business engaged in the business of buying grain for sale in interstate commerce, and in the business of handling, weighing, or transporting of grain for sale in interstate commerce, if, with respect to such

business, the person otherwise required to register under this section is in a control relationship.

(2) For the purposes of this section, a person shall be deemed to be in a "control relationship" with respect to a business required to register under subsection (a) of this section and with respect to applicable interstate businesses if—

(A) such person has an ownership interest of 10 per centum or more in such business, or

(B) a business or group of business entities, with respect to which such person is in a control relationship, has an ownership interest of 10 per centum or more in such business.

(3) For purposes of clauses (A) and (B) of paragraph (2) of this subsection, a person shall be considered to own the ownership interest which is owned by his or her spouse, minor children, and relatives living in the same household.

(c) Certificate of registration

The Secretary shall issue a certificate of registration to persons who comply with the provisions of this section. The certificate of registration issued in accordance with this section shall be renewed annually. If there has been any change in the information required under subsection (b) of this section, the person holding such certificate shall, within thirty days of the discovery of such change, notify the Secretary of such change. No person shall engage in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting of grain in foreign commerce unless the person has registered with the Secretary as required by this chapter and has an unsuspended and unrevoked certificate of registration.

(d) Suspension or registration of certificate of registration

The Secretary may suspend or revoke any certificate of registration issued under this section whenever, after the person holding such certificate has been afforded an opportunity for a hearing in accordance with sections 554, 556, and 557 of title 5, the Secretary shall determine that such person has violated any provision of this chapter or of the regulations promulgated thereunder, or has been convicted of any violation involving the handling, weighing, or inspection of grain under title 18.

(e) Fees

The Secretary shall charge and collect fees from any person registered under this section. The amount of such fees shall be determined on the basis of the costs of the Secretary in administering the registration required by this section. Such fees shall be deposited in, and used as part of, the fund described in section 79(j) of this title.

(Aug. 11, 1916, ch. 313, pt. B, §17A, as added Pub. L. 94-582, §22, Oct. 21, 1976, 90 Stat. 2886; amended Pub. L. 95-113, title XVI, §1604(l), Sept. 29, 1977, 91 Stat. 1029; Pub. L. 103-156, §12(p), Nov. 24, 1993, 107 Stat. 1529; Pub. L. 103-354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

AMENDMENTS

1994—Subsecs. (a), (b)(1), (c) to (e). Pub. L. 103-354 substituted "Secretary" for "Administrator" wherever appearing.

1993—Pub. L. 103-156, §12(p), which directed amendment of "Section 17A", without specifying the name of the Act being amended, was executed to this section, which is section 17A of the United States Grain Standards Act, to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 103-156, §12(p)(1), substituted "the producer" for "he".

Subsec. (c). Pub. L. 103-156, §12(p)(2), substituted "the person" for "he" in last sentence.

1977—Subsec. (b)(1). Pub. L. 95-113 substituted "All persons required to register" for "All persons registered" in provisions preceding subpar. (A).

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as an Effective Date of 1976 Amendment note under section 74 of this title.

§ 87f-2. Reporting requirements

(a) General requirements; annual report to Congressional committees

On December 1 of each year, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding the effectiveness of the official inspection and weighing system under this chapter for the prior fiscal year, with recommendations for any legislative changes necessary to accomplish the objectives stated in section 74 of this title.

(b) Notification of Congressional committees of complaints regarding faulty grain deliveries and cancellation of export contracts

The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate (1) of any complaint regarding faulty grain delivery made to the Department of Agriculture by a foreign purchaser of United States grain, within thirty days after a determination by the Secretary that there is reasonable cause to believe that the grain delivery was in fact faulty, and (2) notwithstanding the provisions of section 612c-3¹ of this title, within thirty days after receipt by the Secretary or the Secretary² of notice of the cancellation of any contract for the export of more than one hundred thousand metric tons of grain.

(c) Submission to Congressional committees of annual summary of complaints from foreign purchasers and prospective purchasers of grain

On December 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of

¹ See References in Text note below.

² So in original. The words "or the Secretary" probably should not appear.

the Senate a summary of all other complaints received by the Department of Agriculture during the prior fiscal year from foreign purchasers and prospective purchasers of United States grain and other foreign purchasers interested in the trade of grain, and the resolution thereof: *Provided*, That the summary shall not include a complaint unless reasonable cause exists to believe that the complaint is valid, as determined by the Secretary.

(Aug. 11, 1916, ch. 313, pt. B, § 17B, as added Pub. L. 94-582, § 22, Oct. 21, 1976, 90 Stat. 2888; amended Pub. L. 95-113, title XVI, §§ 1604(m), 1606(i), (j), Sept. 29, 1977, 91 Stat. 1029, 1030; Pub. L. 102-237, title X, § 1007(3), Dec. 13, 1991, 105 Stat. 1897; Pub. L. 103-354, title II, § 293(a)(7), Oct. 13, 1994, 108 Stat. 3237.)

REFERENCES IN TEXT

Section 612c-3 of this title, referred to in subsec. (b), was repealed by Pub. L. 101-624, title XV, § 1578, Nov. 28, 1990, 104 Stat. 3702.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1991—Subsec. (a). Pub. L. 102-237 substituted “On December 1 of each year, the” for “The” and “Committee on Agriculture” for “committee on Agriculture” before “of the House” and struck out “one year after the effective date of the United States Grain Standards Act of 1976 setting forth the actions taken by him in implementing the provisions of that Act; and, on December 1 of each year thereafter, the Administrator shall report to such committees” before “regarding”.

1977—Subsec. (a). Pub. L. 95-113, § 1606(i), (j), substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry” and “inspection and weighing” for “inspection”.

Subsec. (b). Pub. L. 95-113, §§ 1604(m), 1606(i), substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry” in provisions preceding cl. (1) and, in cl. (2) substituted “notwithstanding the provisions of section 612c-3 of this title, within thirty days after receipt by the Administrator or the Secretary of notice of the cancellation” for “within thirty days after receipt by the Administrator or the Secretary of the cancellation”.

Subsec. (c). Pub. L. 95-113, § 1606(i), substituted “Committee on Agriculture, Nutrition, and Forestry” for “Committee on Agriculture and Forestry”.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as an Effective Date of 1976 Amendment note under section 74 of this title.

§ 87g. Relation to State and local laws; separability

(a) No State or subdivision thereof may require the inspection or description in accordance with any standards of kind, class, quality, condition, or other characteristics of grain as a condition of shipment, or sale, of such grain in interstate or foreign commerce, or require any license for, or impose any other restrictions upon the performance of any official inspection

or weighing function under this chapter by official inspection personnel. Otherwise nothing in this chapter shall invalidate any law or other provision of any State or subdivision thereof in the absence of a conflict with this chapter.

(b) If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Aug. 11, 1916, ch. 313, pt. B, § 18, as added Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 769; amended Pub. L. 94-582, § 20, Oct. 21, 1976, 90 Stat. 2886.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-582 substituted in first sentence “official inspection or weighing function” for “official inspection function”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

§ 87h. Appropriations

There are hereby authorized to be appropriated such sums as are necessary for standardization and compliance activities, monitoring in foreign ports grain officially inspected and weighed under this chapter, and any other expenses necessary to carry out the provisions of this chapter for each of the fiscal years 1988 through 2015, to the extent that financing is not obtained from fees and sales of samples as provided for in sections 79, 79a, 79b, 87e, and 87f-1 of this title.

(Aug. 11, 1916, ch. 313, pt. B, § 19, as added Pub. L. 90-487, § 1, Aug. 15, 1968, 82 Stat. 769; amended Pub. L. 94-582, § 21, Oct. 21, 1976, 90 Stat. 2886; Pub. L. 95-113, title XVI, §§ 1602(c), 1604(n), Sept. 29, 1977, 91 Stat. 1025, 1029; Pub. L. 97-35, title I, § 155(4), Aug. 13, 1981, 95 Stat. 372; Pub. L. 98-469, § 2(3), Oct. 11, 1984, 98 Stat. 1832; Pub. L. 100-518, § 2(4), Oct. 24, 1988, 102 Stat. 2586; Pub. L. 103-156, § 3, Nov. 24, 1993, 107 Stat. 1525; Pub. L. 106-472, title I, § 108, Nov. 9, 2000, 114 Stat. 2060; Pub. L. 109-83, § 1(a), Sept. 30, 2005, 119 Stat. 2053.)

AMENDMENTS

2005—Pub. L. 109-83 substituted “2015” for “2005”.

2000—Pub. L. 106-472 substituted “2005” for “2000”.

1993—Pub. L. 103-156 substituted “1988 through 2000” for “during the period beginning October 1, 1988, and ending September 30, 1993” and inserted references to sections 79b and 87e of this title.

1988—Pub. L. 100-518 amended section generally, substituting “1988” for “1981” and “1993” for “1984”.

1984—Pub. L. 98-469 temporarily substituted “September 30, 1988” for “September 30, 1984”. See Effective and Termination Dates of 1984 Amendment note below.

1981—Pub. L. 97-35 temporarily amended section, substantially revising enumerated activities for which appropriations are authorized and limiting such authorization for each of the fiscal years during the period beginning Oct. 1, 1981, and ending Sept. 30, 1984. See Effective and Termination Dates of 1981 Amendment note below.

1977—Pub. L. 95-113 substituted “Federal administrative and supervisory costs related to the official inspection or the provision of weighing services for grain” for “those Federal administrative and supervisory costs incurred within the Service’s Washington office or not directly related to the official inspection or the provision of weighing services for grain” and renumbered this section as section 19 of the United States Grain Standards Act, thereby correcting an error in the 1976 amendment of this section by Pub. L. 94-582 under which this section had inadvertently been renumbered from section 19 of the United States Grain Standards Act to section 21 thereof.

1976—Pub. L. 94-582 enumerated specific items for which appropriations are authorized and provided for financing obtained from fees and sales of samples as provided in sections 79a and 87f-1 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-472 effective as if enacted Sept. 30, 2000, see section 111 of Pub. L. 106-472, set out as a note under section 79 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-156 effective as of Sept. 30, 1993, see section 16(b) of Pub. L. 103-156, set out as a note under section 75 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

That part of section 2 of Pub. L. 100-518 which provided that amendment made by Pub. L. 100-518 was effective for the period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed, effective Sept. 30, 1993, by Pub. L. 103-156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530.

EFFECTIVE AND TERMINATION DATES OF 1984 AMENDMENT

Section 2 of Pub. L. 98-469 provided that the amendment made by Pub. L. 98-469 is effective for period beginning Oct. 11, 1984, and ending Sept. 30, 1988.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 155 of Pub. L. 97-35, as amended by Pub. L. 98-469, §1, Oct. 11, 1984, 98 Stat. 1831, provided that the amendment made by Pub. L. 97-35 is effective for period beginning Oct. 1, 1981, and ending Sept. 30, 1988.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as a note under section 1307 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-582 effective 30 days after Oct. 21, 1976, see section 27 of Pub. L. 94-582, as amended, set out as a note under section 74 of this title.

EFFECTIVE DATE

For effective date of section, see section 2 of Pub. L. 90-487, set out as an Effective Date of 1968 Amendment note under section 78 of this title.

§ 87i. Omitted

CODIFICATION

Section, act Aug. 11, 1916, ch. 313, pt. B, §20, as added Aug. 13, 1981, Pub. L. 97-35, title I, §155(5), 95 Stat. 372, which established an advisory committee, was effective for the period Oct. 1, 1981, through Sept. 30, 1988, pursuant to section 155 of Pub. L. 97-35, as amended. See section 87j of this title.

§ 87j. Advisory committee

(a) Establishment; number and terms of members

Not later than ninety days after October 24, 1988, the Secretary shall establish an advisory

committee to provide advice to the Secretary with respect to implementation of this chapter consistent with the declarations of policy in section 74 of this title. The advisory committee shall consist of fifteen members, appointed by the Secretary, who represent the interests of all segments of the grain producing, processing, storing, merchandising, consuming, and exporting industries, including grain inspection and weighing agencies and scientists with expertise in research related to the policies established in section 74 of this title. Members of the advisory committee shall be appointed to three-year terms, except that of the initial fifteen members of the advisory committee first appointed following the enactment of this section, five shall be appointed for terms of one year and five shall be appointed for terms of two years. No member of the advisory committee may serve successive terms.

(b) Federal Advisory Committee Act as governing

The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act [5 U.S.C. App.].

(c) Clerical assistance and staff personnel

The Secretary shall provide the advisory committee with necessary clerical assistance and staff personnel.

(d) Compensation and travel expenses

Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this chapter, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5.

(e) Expiration of Secretary’s authority

The authority provided to the Secretary for the establishment and maintenance of an advisory committee under this section shall expire on September 30, 2015.

(Aug. 11, 1916, ch. 313, pt. B, §21, as added Pub. L. 100-518, §2(5), Oct. 24, 1988, 102 Stat. 2586; amended Pub. L. 103-156, §§13(b)(1), 14(c), Nov. 24, 1993, 107 Stat. 1529, 1530; Pub. L. 103-354, title II, §293(a)(7), Oct. 13, 1994, 108 Stat. 3237; Pub. L. 106-472, title I, §109, Nov. 9, 2000, 114 Stat. 2060; Pub. L. 109-83, §1(a), Sept. 30, 2005, 119 Stat. 2053.)

REFERENCES IN TEXT

The enactment of this section, referred to in subsec. (a), means Oct. 24, 1988, the date of enactment of Pub. L. 100-518.

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2005—Subsec. (e). Pub. L. 109-83 substituted “2015” for “2005”.

2000—Subsec. (e). Pub. L. 106-472 substituted “2005” for “2000”.

1994—Subsecs. (a), (c). Pub. L. 103-354 substituted “Secretary” for “Administrator”.

1993—Subsec. (a). Pub. L. 103-156, §13(b)(1), struck out “(1)” before “Not later than” and struck out par. (2) which read as follows: “To ensure a smooth transition, the advisory committee established under section 87i of this title (as in effect prior to October 1, 1988) shall continue in existence until all members of the advisory committee established under this section are appointed; and the Secretary may appoint members of the advisory committee established under section 87i of this title to serve on the advisory committee established under this section, without regard to the time of service of such members on the advisory committee established under section 87i of this title.”

Subsec. (e). Pub. L. 103-156, §14(c), added subsec. (e).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-472 effective as if enacted Sept. 30, 2000, see section 111 of Pub. L. 106-472, set out as a note under section 79 of this title.

EFFECTIVE AND TERMINATION DATES

That part of section 2 of Pub. L. 100-518 which provided that section was effective for period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed, effective Sept. 30, 1993, by Pub. L. 103-156, §§13(a), 16(b), Nov. 24, 1993, 107 Stat. 1529, 1530.

§ 87k. Standardizing commercial inspections

(a) Testing equipment

To promote greater uniformity in commercial grain inspection results, the Secretary may work in conjunction with the National Institute for Standards and Technology, the National Conference on Weights and Measures, or other appropriate governmental, scientific, or technical organizations to—

- (1) identify inspection instruments requiring standardization under subsection (b) of this section;
- (2) establish performance criteria for commercial grain inspection instruments;
- (3) develop a national program to approve grain inspection instruments for commercial inspection; and
- (4) develop standard reference materials or other means necessary for calibration or testing of approved instruments.

(b) General inspection procedures

To ensure that producers are treated uniformly in delivering grain, the Secretary shall develop practical and cost-effective procedures for conducting commercial inspections of grain with respect to the application of quality factors, that result in premiums and discounts. The procedures shall be made available to country elevators and others making first-point-of-delivery inspections.

(c) Inspection services and information

To encourage the use of equipment and procedures developed in accordance with subsections (a) and (b) of this section, the Secretary shall provide for official inspection services by the Secretary, States, and official inspection agencies and provide information on the proper use of sampling and inspection equipment, application of the grain standards, and availability of official inspection services, including appeals under this chapter.

(d) Standardized aflatoxin equipment and procedures

The Secretary shall—

- (1) establish uniform standards for testing equipment; and
- (2) establish uniform testing procedures and sampling techniques;

that may be used by processors, refiners, operators of grain elevators and terminals, and others to accurately detect the level of aflatoxin contamination of corn in the United States.

(Aug. 11, 1916, ch. 313, pt. B, §22, as added Pub. L. 101-624, title XX, §2009, Nov. 28, 1990, 104 Stat. 3931; amended Pub. L. 103-156, §§11, 13(b)(2), Nov. 24, 1993, 107 Stat. 1528, 1529; Pub. L. 103-354, title II, §293(a)(7), (8), Oct. 13, 1994, 108 Stat. 3237.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act” and was translated as reading “this part”, meaning part B of act Aug. 11, 1916, known as the United States Grain Standards Act, to reflect the probable intent of Congress.

AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing and “Secretary” for “Service” in subsec. (c).

1993—Subsec. (a). Pub. L. 103-156, §11, substituted “, the National Conference on Weights and Measures, or other appropriate governmental, scientific, or technical organizations” for “and the National Conference on Weights and Measures” in introductory provisions.

Subsec. (c). Pub. L. 103-156, §13(b)(2), substituted “subsections (a) and (b)” for “subsection (a) and (b)”.

CHAPTER 4—NAVAL STORES

Sec.	
91.	Short title.
92.	Definitions.
93.	Establishment of official naval stores standards.
94.	Supplying duplicates of standards; examination, etc., of naval stores and certification thereof.
95.	Prohibition of acts deemed injurious to commerce in naval stores.
96.	Punishment for violation of prohibition.
97.	Purchase and analysis by Secretary of samples of spirits of turpentine to detect violations; reports to Department of Justice; publication of results of analysis, etc.
98.	Fees and charges for naval stores inspection and related services; establishment; collection, etc.; authorization of appropriations; administrative expenses.
99.	Separability.

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, eff. Mar. 12, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of 1953 Reorg. Plan No. 1.

The Secretary and Department of Health, Education, and Welfare was redesignated the Secretary and Department of Health and Human Services by section 3508 of Title 20, Education.

The Food and Drug Administration in the Department of Agriculture and its functions, except those functions relating to the administration of the Naval Stores Act, this chapter, were transferred to the Federal Security Agency by 1940 Reorg. Plan No. IV, §12, set out in the Appendix to Title 5, Government Organization and Employees.