§ 138f Fees

(a) In general

At the time that an application for accreditation is received by the Secretary and annually thereafter, a laboratory seeking accreditation by the Secretary under the authority of this chapter, the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) shall pay to the Secretary a nonrefundable accreditation fee. All fees collected by the Secretary shall be credited to the account from which the expenses of the laboratory accreditation program are paid and, subject to subsection (e) of this section, shall be available immediately and remain available until expended to pay the expenses of the laboratory accreditation program.

(b) Amount of fee

The fee required under this section shall be established by the Secretary in an amount that will offset the cost of the laboratory accreditation programs administered by the Secretary under the statutory authorities set forth in subsection (a) of this section.

(c) Reimbursement of expenses

Each laboratory that is accredited under a statutory authority set forth in subsection (a) of this section or that has applied for accreditation under such authority shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of the laboratory.

(d) Adjustment of fees

The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the laboratory accreditation programs carried out under the statutory authorities set forth in subsection (a) of this section.

(e) Appropriations prerequisite

No fees collected under this section may be used to offset the cost of laboratory accreditation without appropriations made under subsection (f) of this section.

(f) Authorization of appropriations

There are authorized to be appropriated each fiscal year such sums as may be necessary for laboratory accreditation services under this section.


§ 138g Public disclosure

The results of the evaluations of laboratories conducted by the Secretary under this chapter shall be made available to the Secretary of Health and Human Services and to the public on request.


§ 138h Regulations

The Secretary shall promulgate regulations to carry out this chapter.


§ 138i Effect of other laws

Nothing in this chapter shall alter the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).


REFERENCES IN TEXT

The Federal Meat Inspection Act, referred to in subsec. (a), is titles I to IV of act Mar. 4, 1907, ch. 2907, as added Dec. 15, 1967, Pub. L. 90–201, 81 Stat. 584, and amended, which are classified generally to chapter 10 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 451 of Title 21 and Tables.

The Poultry Products Inspection Act, referred to in subsec. (a), is Pub. L. 85–172, Aug. 28, 1957, 71 Stat. 441, as amended, which is classified generally to chapter 10 of Title 21 and Tables.

AMENDMENTS

1991—Pub. L. 102–237 amended section generally, in subsec. (a), inserting provisions relating to Federal Meat Inspection Act and Poultry Products Inspection Act and provisions relating to crediting and availability of fees, in subsec. (b), substituting provisions relating to fee under this section for provisions relating to fee under subsec. (a) of this section, and provisions relating to laboratory accreditation programs administered by the Secretary under statutory authorities set forth in subsec. (a) of this section for provisions relating to program established under this chapter, in subsec. (c), substituting provisions relating to statutory authority set forth in subsec. (a) of this section for provisions relating to program established under this chapter, and adding subsecs. (e) and (f).

$138g. Public disclosure

The results of the evaluations of laboratories conducted by the Secretary under this chapter shall be made available to the Secretary of Health and Human Services and to the public on request.


§ 138h. Regulations

The Secretary shall promulgate regulations to carry out this chapter.


§ 138i. Effect of other laws

Nothing in this chapter shall alter the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).


REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in text, is act June 25, 1938, ch. 755, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

CHAPTER 7—INSECT PESTS GENERALLY

Sec. 141 to 147. Repealed or Omitted.

147a. Control and eradication of plant pests.

(a) Authority of Secretary of Agriculture.

(b) Intergovernmental cooperation.

(c) Cooperating foreign agency.

(d) Definitions.

(e) Rules and regulations.

(f) Authorization of appropriations; fees, late payment penalties, and accrued interest.

147b. Emergency transfer of funds by Secretary of Agriculture.
149. Regulation, cleaning, etc., of vehicles and plant diseases.

148d. Restrictions on appropriations.

148e. Authorization of appropriations.

Section 147a of this title.


147a. Control and eradication of plant pests

(a) Authority of Secretary of Agriculture

The Secretary of Agriculture is authorized to cooperate with the governments of foreign countries, or the local authorities thereof, and with foreign or international organizations or associations, in carrying out necessary surveys and control operations in those countries in connection with the detection, eradication, suppression, control, and prevention or retardation of the spread of plant pests.

(b) Intergovernmental cooperation

The Secretary of Agriculture is further authorized to cooperate with the governments of foreign countries, or the local authorities thereof, and with foreign or international organizations or associations, in carrying out necessary surveys and control operations in those countries in connection with the detection, eradication, suppression, control, and prevention or retardation of the spread of plant pests.

(c) Cooperating foreign agency

In performing the operations or measures herein authorized, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary.

(d) Definitions

As used in this section—

(1) “plant pest” means any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants;

(2) “living stage” includes the egg, pupal, and larval stages as well as any other living stage; and

(3) “State” includes the District of Columbia and the territories and possessions of the United States.

(e) Rules and regulations

The Secretary of Agriculture is authorized to promulgate such rules and regulations and use such means as he may deem necessary to provide for the inspection of plants and plant products offered for export or transiting the United States and to certify to shippers and interested parties that such shipments are free from plant pests.

§§ 146, 147. Omitted

Codification

Section 146, act Feb. 9, 1927, ch. 90, 44 Stat. 1065, authorized an appropriation of $10,000,000 to eradicate or control European corn borer.

Section 147, act May 24, 1928, ch. 734, 45 Stat. 734, authorized an additional appropriation of $7,000,000 to eradicate or control European corn borer.
§ 147a

such sums shall be used to pay the cost or value such products may be exported, or to the free-
quirements of the foreign countries to which
plant pests according to the phytosanitary re-

(f) Authorization of appropriations; fees, late
payment penalties, and accrued interest

(1) Notwithstanding paragraph (2), there are
authorized to be appropriated such sums as may
be necessary to carry out the provisions of this
section. Unless otherwise specifically authorized
or provided for in appropriations Acts, no part of
such sums shall be used to pay the cost or value
of property injured or destroyed.

(2) The Secretary of Agriculture is authorized
to prescribe and collect fees to recover the costs
of providing for the inspection of plants and
plant products offered for export or transiting
the United States and certifying to shippers and
interested parties as to the freedom of such
plants and plant products from plant pests ac-
cording to the phytosanitary requirements of the
foreign countries to which such plants and
plant products may be exported, or to the free-
dom from exposure to plant pests while in tran-
sit through the United States. Any person for
whom such an activity is performed shall be lia-
ble for payment of fees assessed. Upon failure to
pay such fees when due, the Secretary of Agri-
culture shall assess a late payment penalty, and
such overdue fees shall accrue interest, as re-
quired by section 3717 of title 31. All fees, late
payment penalties, and accrued interest col-
lected shall be credited to such accounts that
incur the costs and shall remain available until
expended without fiscal year limitation. The
Secretary of Agriculture shall have a lien for
the fees, any late payment penalty, and any ac-
crued interest assessed against the plant or
plant product for which services have been pro-
vided. In the case of any person who fails to
make payment when due, the Secretary of Agri-
culture shall also have a lien against any plant
or plant product thereafter attempted to be ex-
ported by such person. The Secretary of Agri-
culture may, in case of nonpayment of the fees,
late payment penalty, or accrued interest, after
giving reasonable notice of default to the person
liable for payment of such assessments, sell at
public sale after reasonable public notice, or
otherwise dispose of, any such plant or plant
product upon which the Secretary of Agri-
culture has a lien pursuant to this section. If the
sale proceeds exceed the fees due, any late pay-
ment penalty assessed, any accrued interest and
the expenses of the sale, the excess shall be paid,
in accordance with regulations of the Secretary
of Agriculture, to the owner of the plant or
plant product sold upon the owner making appli-
cation therefore with proof of ownership, within
six months after such sale, and otherwise the ex-
cess shall be credited to accounts that incur the
costs and shall remain available until expended.

The Secretary of Agriculture shall, pursuant to
regulations as prescribed by the Secretary of
Agriculture, suspend performance of services to
persons who have failed to pay such fees, late
payment penalty and accrued interest.

(Sept. 21, 1944, ch. 412, title I, §102, 58 Stat. 735;
June 17, 1949, ch. 220, 63 Stat. 206; May 23, 1957,
Pub. L. 85-36, title II, §201, 71 Stat. 35; Mar. 15,
1976, Pub. L. 94-231, §1, 90 Stat. 215; Nov. 28, 1990,
Pub. L. 101-624, title XXV, §§2504, 2509(b), 104
Stat. 4068, 4070.)

AMENDMENTS

1990—Subsec. (b), Pub. L. 101-624, §2504, substituted
"foreign countries" for "all countries of the Western
Hemisphere" and inserted "foreign or" before "inter-
national".

Subsec. (f), Pub. L. 101-624, §2509(b), amended subsec.
(f) generally. Prior to amendment, subsec. (f) read as
follows: "There are hereby authorized to be appro-
priated such sums as the Congress may annually deter-
mine to be necessary to enable the Secretary of Agri-
culture to carry out the provisions of this section. Un-
less otherwise specifically authorized, or provided for in
appropriations, no part of such sums shall be used to
pay the cost or value of property injured or destroyed."

1976—Subsecs. (a) to (d), Pub. L. 94-231 redesignated
existing provisions of subsec. (a) as subsecs. (a) to (d)
and broadened Secretary's authority to control and
eradicant plant pests and animal diseases, extended
Secretary's authority to cooperate with foreign govern-
ments, and inserted definitions of "plant pests" and "living stage". Former subsecs. (b) and (c) redesignated
(e) and (f), respectively.

Subsec. (e), Pub. L. 94-231 redesignated subsec. (b) as
(e) and made discretionary the Secretary's authority to
provide phytosanitary inspection and certification
service for domestic plants and plant products offered
for export or transit in the United States.

Subsec. (f), Pub. L. 94-231 redesignated subsec. (c) as
(f) and substituted provisions authorizing appropria-
tions on a Congressional finding of necessity made "an-
nually" for provisions authorizing appropriations on a
Congressional finding of necessity made "from time to
time".

1957—Subsec. (a), Pub. L. 85-36 inserted "insect pests,
plant diseases, and nematodes, such as imported fire
ant, soybean cyst nematode, witchweed, spotted alfalfa
aphid," after "or to prevent or retard the spread of".

1949—Subsec. (a), Act June 17, 1949, authorized the
Secretary to carry out operations to combat the citrus
blackfly, white-fringed beetle, and the Hall scale.

CONTINUATION OF PROVISIONS

provided in part that: "All Acts amended or repealed
hereby [this section and sections 141 to 144, 149, and 441
of this title] shall be deemed to continue in full force
and effect for the purpose of sustaining any action or
other proceeding with respect to any right that ac-
crued, liability that was incurred, or violation that oc-
curred prior to the effective date of this Act [May 23,
1957]. Nothing contained in this Act [enacting chapter
7B of this title, amending this section and section 149
of this title, and repealing sections 141 to 144, and 441
of this title] shall affect the validity of any findings,
regulations, or other orders, permits, or certificates,
which were issued under any of the Acts cited in this
section [sections 141 to 144, and 441 of this title] prior
the effective date of this Act [May 23, 1957] and
which are in effect on said date, but such findings, reg-
ulations, other orders, permits, and certificates shall
remain in effect unless and until modified in accord-
ance with this Act [enacting chapter 7B of this title,
amending this section and section 149 of this title, and
repealing sections 141 to 144, and 441 of this title]."

For disposition of remainder of section 111, see note
set out under section 150f of this title.

CROSS REFERENCES

Cooperation with State agencies in administration
and enforcement of laws relating to marketing of agri-
cultural products and control or eradication of plant
and animal diseases and pests; assistance of State agen-
cies to Secretary of Agriculture; coordination of ad-
mnistration of Federal and State laws; Federal admin-

§ 147b. Emergency transfer of funds by Secretary of Agriculture

The Secretary of Agriculture may, in connection with emergencies which threaten any segment of the agricultural production industry of this country, transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such sums as the Secretary may deem necessary, to be available only in such emergencies for the arrest and eradication of plant pests or contagious or infectious diseases of animals or poultry, and for expenses in accordance with section 147a of this title and section 114b of title 21. (Pub. L. 97–46, § 1, Sept. 25, 1981, 95 Stat. 953.)

Effective Date

Section 2 of Pub. L. 97–46 provided that: "The provisions of this Act [this section] shall become effective upon enactment [Sept. 25, 1981]."

§ 148. Control of insect pests and plant diseases

The Secretary of Agriculture, in cooperation with authorities of the States concerned, organizations, or individuals, is authorized and directed to apply such methods for the control of incipient or emergency outbreaks of insect pests or plant diseases, including grasshoppers, Mormon crickets, and chinch bugs as may be necessary. The Secretary of Agriculture is further authorized to cooperate with the Governments of Canada or Mexico or local Canadian or Mexican authorities in carrying out in such countries necessary operations or measures to control incipient or emergency outbreaks of insect pests or plant diseases, when such operations or measures are necessary to protect the agriculture of the United States. In performing the operations or measures authorized under sections 148 to 148e of this title, the cooperating foreign country, State, or local agency shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country or State other than those owned or controlled by the Federal Government and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary. (Apr. 6, 1937, ch. 69, § 2, as added May 9, 1938, ch. 192, 52 Stat. 344.)

Section Referred to in Other Sections

This section is referred to in sections 148, 148c, 148e of this title; title 41 section 6b.


Section, act Apr. 6, 1937, ch. 69, § 3, as added May 9, 1938, ch. 192, 52 Stat. 344, related to procurement of materials and equipment for the control of insect pests and plant diseases. See section 6b(a) of Title 41, Public Contracts.

§ 148c. Control of insect pests and plant diseases; cooperation of States

In the discretion of the Secretary of Agriculture, no part of any sums appropriated to carry out the purposes of sections 148 to 148e of this title shall be expended for the control of incipient or emergency outbreaks of insect pests or plant diseases in any State until the State concerned has provided the organization or materials and supplies necessary for cooperation with the Federal Government. (Apr. 6, 1937, ch. 69, § 4, as added May 9, 1938, ch. 192, 52 Stat. 344.)

Cross References

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal administrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.
§ 148d. Restrictions on appropriations

No part of the sums hereinafter authorized to be appropriated shall be used to pay the cost or value of farm animals, farm crops, or other property injured or destroyed.

(Apr. 6, 1937, ch. 69, § 5, as added May 9, 1938, ch. 192, 52 Stat. 344.)

Section referred to in other sections

This section is referred to in sections 148, 148c, 148e of this title; title 41 section 6b.

§ 148e. Authorization of appropriations

There are authorized to be appropriated annually such sums as may be necessary to carry out the provisions of sections 148 to 148e of this title.

(Apr. 6, 1937, ch. 69, § 6, as added May 9, 1938, ch. 192, 52 Stat. 344.)

Additional appropriations


Section referred to in other sections

This section is referred to in sections 148, 148c of this title; title 41 section 6b.

§ 148f. Control of grasshoppers and Mormon Crickets on Federal lands

(a) Authority of Secretary of Agriculture

The Secretary of Agriculture shall carry out a program to control grasshoppers and Mormon Crickets on all Federal lands.

(b) Funds for lands subject to jurisdiction of Federal Government or Federal lands subject to jurisdiction of Secretary of the Interior; prompt requests for transferred funds and for replenishing appropriations

(1) Subject to paragraph (2), the Secretary of Agriculture shall expend or transfer, and upon request, the Secretary of the Interior shall transfer to the Secretary of Agriculture, from any no-year appropriations, funds for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Federal Government.

(2)(A) Appropriated funds made available to the Secretary of the Interior shall be available for the payment of obligations incurred on Federal lands subject to the jurisdiction of the Secretary of the Interior.

(B) Funds transferred pursuant to this paragraph shall be requested as promptly as possible by the Secretary of Agriculture.

(C) Funds transferred pursuant to this section shall be replenished by supplemental or regular appropriations which shall be requested as promptly as possible.

(c) Exhaustion of contingency grasshopper emergency funds before availability of transferred funds for control of outbreaks on Federal lands subject to jurisdiction of Secretary of the Interior

(1) Except as provided in paragraph (2), from any funds made available to the Department of the Interior until expended, monies shall be made available for the transfer by the Secretary of the Interior to the Secretary of Agriculture for the prevention, suppression, and control of grasshoppers and Mormon Cricket outbreaks on Federal lands under the jurisdiction of the Secretary of the Interior.

(2) No funds shall be made available under this authority, until contingency funds specifically available to the Animal and Plant Health Inspection Service for grasshopper emergencies have been exhausted.

(d) Time for treatment of lands dependent on determination of economic damage

On request of the administering agency or the Department of Agriculture of an affected State, the Secretary of Agriculture shall immediately treat Federal, State, or private lands that are infested by grasshoppers or Mormon Crickets at levels of economic infestation, unless the Secretary determines that delaying treatment will optimize biological control and not cause greater economic damage to adjacent landowners.

(e) Amount of payments for costs of control on Federal, State, and private lands; interrelated participation efforts

The Secretary of Agriculture shall—

(1) pay out of appropriated funds made available to the Secretary or transferred to the Secretary by the Secretary of the Interior—100 percent of the cost of grasshopper or Mormon Cricket control on Federal lands;

(2) pay out of appropriated funds made available to the Secretary—

(A) 50 percent of the cost of such control on State lands; and

(B) 33.3 percent of the cost of such control on private rangelands; and

(3) participate in prevention, control, or suppression programs for grasshoppers and Mormon Crickets in conjunction with other Federal, State and private prevention, control or suppression efforts.

(f) Funding of personnel training program

From appropriated funds made available or transferred by the Secretary of the Interior to the Secretary of Agriculture for such purposes, the Secretary of Agriculture shall provide adequate funding for a program to train personnel to effectively accomplish the objective of this section.


§ 149. Regulation, cleaning, etc., of vehicles and materials entering from Mexico

(a) Administration by Secretary; fees

To prevent the introduction of insect pests and plant diseases the Secretary of Agriculture is authorized and directed to promulgate such rules and regulations as he may deem necessary to regulate the entry into the United States of railway cars and other vehicles and freight, express, baggage, and other materials which may carry such pests and to provide for the inspection, cleaning, and, when necessary, disinfection of such vehicles and materials; to carry out the
activities required to accomplish this purpose, the Secretary of Agriculture shall use such means as he may deem necessary, including construction and repair of buildings, plants, and equipment for fumigation and disinfection of vehicles and materials; the cleaning and disinfection of vehicles or materials necessary to accomplish the purpose shall be carried out by or under the direction of authorized inspectors of the Department of Agriculture, and the Secretary of Agriculture shall make and collect such charge as will cover, as nearly as may be, the average cost of materials, facilities, and special labor used in performing such disinfection, and fees so collected shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) Penalties

(1) Any person who knowingly violates any rule or regulation promulgated under subsection (a) of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, by imprisonment not exceeding one year, or both.

(2) Any person who violates any such rule or regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28. The validity of such order may not be reviewed in an action to collect such civil penalty.

(1983—Pub. L. 97–461 designated existing provisions as existing \(150a\) and added subsec. (b).)

1983—Pub. L. 97–461 struck out “from Mexico” after “regulate the entry into the United States’’.

1963—Pub. L. 85–36 designated existing provisions as subsec. (a) and added subsec. (b).

1957—Pub. L. 85–36 substituted “or” for “and” before “under the direction of authorized inspectors”.

Effective Date of 1949 Amendment

Amendment by Pub. L. 103–465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103–465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

Transfer of Functions

Functions of all officers, agencies and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 5218, 67 Stat. 633, set out as a note under section 2201 of this title.

Disposition of Moneys

Department of Agriculture Appropriation Acts, July 12, 1943, ch. 213, 57 Stat. 408; June 28, 1944, ch. 296, 58 Stat. 440, provided that any moneys received in payment of charges shall be covered into the Treasury as miscellaneous receipts.

Continuation of Provisions

Sections amended or repealed by Pub. L. 85–36 to continue in force as to rights, liabilities and violations that occurred before May 23, 1957, and findings, regulations, other orders, permits and certificates issued before May 23, 1957, as remaining in effect until modified, see section 111 of Pub. L. 85–36, set out as a note under section 147a of this title.

CHAPTER 7A—GOLDEN NEMATODE

Sec. 150a. Duty of Secretary of Agriculture.

150b. Inspections; quarantines; restrictions; crop destruction; compensation of growers.

To protect potato and tomato production in the United States from the destructive pest known as the golden nematode which subsists on the roots of potatoes and tomatoes, causes many years in an inactive state in the soil, for many years in an inactive state in the absence of preferred hosts, and becomes active and destructive when potatoes or tomatoes are again planted, it is the policy of the Government of the United States, independently or in cooperation with State and local governmental agencies, and other public and private organizations, associations, and individuals, to eradicate, suppress, control, and prevent the spread of, this pest.

(June 15, 1948, ch. 471, § 1, 62 Stat. 442.)

Short Title

Section 9 of act June 15, 1948, provided that: ‘‘This Act [enacting this chapter] may be cited as the ‘Golden Nematode Act’.’’

Cross References

Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; assistance of State agencies to Secretary of Agriculture; coordination of administration of Federal and State laws; Federal administrative jurisdiction and other provisions respecting cooperation unaffected, see section 450 of this title.

§ 150a. Duty of Secretary of Agriculture

The Secretary of Agriculture either independently or in cooperation with public or private agencies is authorized to carry out operations or measures to eradicate, suppress, control, or prevent the spread of, the golden nematode.

(June 15, 1948, ch. 471, § 2, 62 Stat. 443.)

§ 150b. Inspections; quarantines; restrictions; crop destruction; compensation of growers

The activities contemplated by this chapter include cooperation with States and other agencies in making inspections, applying suppressive measures, enforcing quarantines, enforcing restrictions on the planting of potatoes and toma-