

§ 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) to be performed (1) by personnel employed by the Secretary, or (2) by States, political subdivisions thereof, or persons under the supervision 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.)

Editorial Notes

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”.

Statutory Notes and Related Subsidiaries

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**Editorial Notes**

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 2025 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; Pub. L. 114-54, title III, §301(d), Sept. 30, 2015, 129 Stat. 520; Pub. L. 116-216, §4, Dec. 11, 2020, 134 Stat. 1048.)

Editorial Notes

AMENDMENTS

2020—Pub. L. 116-216 substituted “2025” for “2020”.
 2015—Pub. L. 114-54 substituted “2020” for “2015”.
 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”.

Statutory Notes and Related Subsidiaries

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

Editorial Notes

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 every 5 years 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 du-