

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100-518 which provided that section was effective for the period Oct. 1, 1988, through Sept. 30, 1993, inclusive, was repealed by Pub.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 re-

spect 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 75, 77, 79, 87b 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 determination 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79, 79a, 87e 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 business) 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 con-