

US Code

(Unofficial compilation from the Legal Information Institute)

TITLE 7 - AGRICULTURE

CHAPTER 6A—NATIONAL LABORATORY ACCREDITATION

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TITLE 7 - AGRICULTURE	1
CHAPTER 6A - NATIONAL LABORATORY ACCREDITATION	4
§ 138. Definitions	4
§ 138a. National Laboratory Accreditation Program	4
§ 138b. Accreditation	5
§ 138c. Samples	6
§ 138d. Application	6
§ 138e. Reporting	7
§ 138f. Fees	7
§ 138g. Public disclosure	8
§ 138h. Regulations	8
§ 138i. Effect of other laws	8

TITLE 7 AGRICULTURE

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TITLE 7—AGRICULTURE

- Chap. ...Sec.
1. Commodity Exchanges ...1
 2. Cotton Standards ...51
 3. Grain Standards ...71
 4. Naval Stores ...91
 5. Importation of Adulterated Seeds [Repealed] ...111
 6. Insecticides and Environmental Pesticide Control ...121
 - 6A. National Laboratory Accreditation ...138
 7. Insect Pests Generally [Repealed, Omitted, or Transferred] ...141
 - 7A. Golden Nematode [Repealed] ...150
 - 7B. Plant Pests [Repealed] ...150aa
 8. Nursery Stock and Other Plants and Plant Products [Repealed, Omitted, or Transferred] ...151
 - 8A. Rubber and Other Critical Agricultural Materials ...171
 9. Packers and Stockyards ...181
 10. Warehouses ...241
 11. Honeybees ...281
 12. Associations of Agricultural Products Producers ...291
 13. Agricultural and Mechanical Colleges ...301
 14. Agricultural Experiment Stations ...361
 15. Bureau of Animal Industry ...391
 16. Bureau of Dairy Industry ...401
 17. Miscellaneous Matters ...411
 18. Cooperative Marketing ...451
 19. Cotton Statistics and Estimates ...471
 20. Dumping or Destruction of Interstate Produce ...491
 - 20A. Perishable Agricultural Commodities ...499a
 21. Tobacco Statistics ...501
 - 21A. Tobacco Inspection ...511
 - 21B. Tobacco Control [Repealed] ...515
 - 21C. Tobacco Reform ...518
 22. Agricultural Marketing [Omitted or Transferred] ...521
 23. Foreign Agricultural Service [Repealed] ...541
 24. Perishable Agricultural Commodities [Transferred to Chapter 20A] ...551
 25. Export Standards for Apples ...581
 - 25A. Export Standards for Grapes and Plums ...591
 26. Agricultural Adjustment ...601
 - 26A. Agricultural Marketing Agreements ...671
 27. Cotton Marketing [Repealed or Omitted] ...701
 28. Tobacco Industry [Repealed] ...751
 29. Potato Act of 1935 [Repealed] ...801
 30. Anti-Hog-Cholera Serum and Hog-Cholera Virus ...851
 31. Rural Electrification and Telephone Service ...901
 - 31A. Telemedicine and Distance Learning Services in Rural Areas ...950aaa
 32. Peanut Statistics ...951
 33. Farm Tenancy ...1000
 34. Sugar Production and Control [Omitted or Repealed] ...1100
 35. Agricultural Adjustment Act of 1938 ...1281
 - 35A. Price Support of Agricultural Commodities ...1421
 36. Crop Insurance ...1501
 37. Seeds ...1551
 38. Distribution and Marketing of Agricultural Products ...1621
 39. Stabilization of International Wheat Market ...1641
 40. Halogeton Glomeratus Control [Repealed] ...1651
 41. Food for Peace ...1691
 42. Agricultural Commodity Set-Aside ...1741
 43. Foreign Market Development ...1761
 44. Wool Program [Repealed] ...1781
 45. Soil Bank Program ...1801
 46. Surplus Disposal of Agricultural Commodities ...1851
 47. Interchange of Department of Agriculture and State Employees [Repealed] ...1881

TITLE 7 AGRICULTURE

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscript.html>).

- 48. Humane Methods of Livestock Slaughter ...1901
- 49. Consultation on Agricultural Programs ...1911
- 50. Agricultural Credit ...1921
- 51. Supplemental Nutrition Assistance Program ...2011
- 52. Farm Labor Contractor Registration [Repealed] ...2041
- 53. Cotton Research and Promotion ...2101
- 54. Transportation, Sale, and Handling of Certain Animals ...2131
- 55. Department of Agriculture ...2201
- 55A. Department of Agriculture Advisory Committees ...2281
- 56. Unfair Trade Practices Affecting Producers of Agricultural Products ...2301
- 57. Plant Variety Protection ...2321
- 58. Potato Research and Promotion ...2611
- 59. Rural Fire Protection, Development, and Small Farm Research and Education ...2651
- 60. Egg Research and Consumer Information ...2701
- 61. Noxious Weeds ...2801
- 62. Beef Research and Information ...2901
- 63. Farmer-to-Consumer Direct Marketing ...3001
- 64. Agricultural Research, Extension, and Teaching ...3101
- 65. Wheat and Wheat Foods Research and Nutrition Education ...3401
- 66. Agricultural Foreign Investment Disclosure ...3501
- 67. Implementation of International Sugar Agreement, 1977 ...3601
- 68. Agricultural Subterminal Facilities ...3701
- 69. Swine Health Protection ...3801
- 70. Animal Cancer Research ...3901
- 71. Agricultural Trade Suspension Adjustment ...4001
- 72. National Agricultural Cost of Production Standards Review Board [Omitted] ...4101
- 73. Farmland Protection Policy ...4201
- 74. Floral Research and Consumer Information ...4301
- 75. International Carriage of Perishable Foodstuffs ...4401
- 76. Dairy Research and Promotion ...4501
- 77. Honey Research, Promotion, and Consumer Information ...4601
- 78. Agricultural Productivity Research [Repealed] ...4701
- 79. Pork Promotion, Research, and Consumer Information ...4801
- 80. Watermelon Research and Promotion ...4901
- 81. National Commission on Agriculture and Rural Development Policy [Omitted] ...5001
- 82. State Agricultural Loan Mediation Programs ...5101
- 83. Agricultural Competitiveness and Trade ...5201
- 84. National Nutrition Monitoring and Related Research ...5301
- 85. Administration of Environmental Programs ...5401
- 86. Water Quality Research, Education, and Coordination ...5501
- 87. Export Promotion ...5601
- 88. Research ...5801
- 89. Pecan Promotion and Research ...6001
- 90. Mushroom Promotion, Research, and Consumer Information ...6101
- 91. Lime Promotion, Research, and Consumer Information ...6201
- 92. Soybean Promotion, Research, and Consumer Information ...6301
- 93. Processor-Funded Milk Promotion Program ...6401
- 94. Organic Certification ...6501
- 95. Rural Revitalization Through Forestry ...6601
- 96. Global Climate Change ...6701
- 97. Fresh Cut Flowers and Fresh Cut Greens Promotion and Information ...6801
- 98. Department of Agriculture Reorganization ...6901
- 99. Sheep Promotion, Research, and Information ...7101
- 100. Agricultural Market Transition ...7201
- 101. Agricultural Promotion ...7401
- 102. Emergency Food Assistance ...7501
- 103. Agricultural Research, Extension, and Education Reform ...7601
- 104. Plant Protection ...7701
- 105. Hass Avocado Promotion, Research, and Information ...7801
- 106. Commodity Programs ...7901
- 107. Renewable Energy Research and Development ...8101
- 108. Tree Assistance Program ...8201

TITLE 7 - CHAPTER 6A NATIONAL LABORATORY ACCREDITATION

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

- 109. Animal Health Protection ...8301
- 110. Enhancing Controls on Dangerous Biological Agents and Toxins ...8401
- 111. Brown Tree Snake Control and Eradication ...8501
- 112. Biomass Research and Development [Repealed] ...8601
- 113. Agricultural Commodity Support Programs ...8701
- 114. Agricultural Security ...8901

CHAPTER 6A—NATIONAL LABORATORY ACCREDITATION

Sec.

138. Definitions.

138a. National Laboratory Accreditation Program.

138b. Accreditation.

138c. Samples.

138d. Application.

138e. Reporting.

138f. Fees.

138g. Public disclosure.

138h. Regulations.

138i. Effect of other laws.

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§ 138. Definitions

As used in this chapter:

(1) Agricultural product

The term “agricultural product” means any fresh fruit or vegetable or any commodity or product derived from livestock or fowl, that is marketed in the United States for human consumption.

(2) Certificate

The term “certificate” means a certificate of accreditation issued under this chapter.

(3) Laboratory

The term “laboratory” means any facility or vehicle that is owned by an individual or a public or private entity and is equipped and operated for the purpose of carrying out pesticide residue analysis on agricultural products for commercial purposes.

(4) Pesticide

The term “pesticide” means any substance that alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in section 136 (u) of this title.

(5) Secretary

The term “Secretary” means the Secretary of Agriculture.

(Pub. L. 101–624, title XIII, § 1321, Nov. 28, 1990, 104 Stat. 3562.)

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§ 138a. National Laboratory Accreditation Program

(a) Establishment of Program

The Secretary shall administer a National Laboratory Accreditation Program under which laboratories that request accreditation and conduct residue testing of agricultural products, or that make claims to the public or buyers of agricultural products concerning chemical residue levels on agricultural products, shall be determined to meet certain minimum quality and reliability standards.

(b) Standards

The Secretary of Health and Human Services, after consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall establish, through regulations, standards for the National Laboratory Accreditation program¹ that shall include—

- (1) standards applicable to laboratories;
- (2) qualifications for directors and other personnel; and

(3) standards and procedures for quality assurance programs.

(c) Accrediting bodies

The Secretary of Health and Human Services shall approve State agencies or private, nonprofit entities as accrediting bodies to act on behalf of such Secretary in implementing the certification and quality assurance programs in accordance with the requirements of this section. In making such approvals the Secretary of Health and Human Services shall—

(1) oversee and review the performance of any accrediting body acting on behalf of the Secretary to ensure that such accrediting body is in compliance with the requirements of the certification program under this section; and

(2) have the right to obtain from an accrediting body acting on behalf of the Secretary and from any laboratory that may be certified by such a body all records and materials that may be necessary for the oversight and review required by paragraph (1).

(d) Requirements

To be accredited under this chapter, a laboratory shall—

(1) prepare and submit an application for accreditation to the Secretary; and

(2) comply with such terms and conditions as are determined necessary by the Secretary and the Secretary of Health and Human Services.

(e) Exceptions

This chapter shall not apply to—

(1) a laboratory operated by a government agency;

(2) a laboratory operated by a corporation that only performs analysis of residues on agricultural products for such corporation or any wholly owned subsidiary of such corporation and does not make claims to the public or buyers based on such analysis;

(3) a laboratory operated by a partnership that only performs analysis of residues on agricultural products for the partners of such partnership and does not make claims to the public or buyers based on such analysis; or

(4) a laboratory not operated for commercial purposes that performs pesticide chemical residue analysis on agricultural products for research or quality control for the internal use of a person who is initiating the analysis.

Footnotes

¹ So in original. Probably should be capitalized.

(Pub. L. 101-624, title XIII, § 1322, Nov. 28, 1990, 104 Stat. 3562.)

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§ 138b. Accreditation

(a) In general

The Secretary shall issue certificates of accreditation to laboratories that meet the requirements of this chapter, as determined by the Secretary.

(b) Requirements for accreditation

To receive accreditation under this chapter, a laboratory shall prepare and submit an application for accreditation to the Secretary and shall complete such required tests, and meet such standards as established under section 138a of this title.

(c) Failure to meet accreditation standards

The Secretary shall deny an application for accreditation or shall revoke any existing accreditation with respect to any laboratory that fails to meet the requirements for accreditation under this chapter.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 7, 2011 (see <http://www.law.cornell.edu/uscode/uscodeprint.html>).

(d) Limited accreditation

The Secretary may issue certificates of accreditation to laboratories that are limited to specific fields of testing.

(Pub. L. 101-624, title XIII, § 1323, Nov. 28, 1990, 104 Stat. 3563.)

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§ 138c. Samples

(a) Performance evaluation samples

(1) Provided by Secretary

The Secretary shall ensure that performance evaluation samples are provided to any laboratory that has applied for accreditation under this chapter.

(2) Analysis by laboratory

A laboratory described in paragraph (1) shall analyze such performance evaluation samples and submit the results of such analysis to the Secretary, as provided for in section 138a of this title.

(3) Testing methods

Samples shall be tested by the laboratory according to methods specifically approved for such purpose by alternate methods of demonstrated adequacy or equivalence, as determined in regulations established under this chapter.

(b) Results of testing

(1) Submission of results

The laboratory shall submit the results of the tests conducted under subsection (a) of this section to the Secretary on forms provided by the Secretary, on or before the date determined by the Secretary.

(2) Evaluation of tests

The Secretary shall evaluate the results of such tests achieved by the laboratory and shall determine whether such laboratory is capable of undertaking an accurate analysis of chemical residues in agricultural products.

(c) Review of accreditation

The Secretary shall ensure that performance evaluation samples for analysis are provided to laboratories accredited under this chapter not less than two times a year.

(Pub. L. 101-624, title XIII, § 1324, Nov. 28, 1990, 104 Stat. 3564.)

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§ 138d. Application

(a) Contents of application

An application for accreditation under this chapter shall be prepared and submitted to the Secretary and shall include—

- (1) the name and address of the laboratory;
- (2) the name and address of the owners and managers of such laboratory;
- (3) a statement concerning the type of analysis the laboratory intends to conduct;
- (4) a brief history of the laboratory and its previous operations; and
- (5) such other information as may be required by the Secretary.

(b) Restrictions on submission of application

A laboratory that has been denied, or has lost, accreditation under this chapter shall not reapply for accreditation until the expiration of at least 6 months after such denial or loss of accreditation.

Corrective actions taken by the laboratory to address deficiencies upon which the denial or loss of accreditation was based must accompany the reapplication.

(Pub. L. 101-624, title XIII, § 1325, Nov. 28, 1990, 104 Stat. 3564.)

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§ 138e. Reporting

(a) In general

Each laboratory or individual that performs, brokers, or otherwise arranges for the performance of a pesticide chemical analysis of food shall prepare and submit a report, simultaneously to the Secretary, the Secretary of Health and Human Services, and to the owner of such food, that shall contain any finding of pesticide chemical residues in such food—

- (1) for which no chemical residue tolerance or exemption has been established;
- (2) that is in excess of residue tolerances; or
- (3) for which the chemical residue tolerance has been revoked or the chemical residue is otherwise not permitted by the Environmental Protection Agency.

(b) Timing of report

A laboratory shall submit the report required under subsection (a) of this section to the Secretary, the Secretary of Health and Human Services, and the owner of such food as soon as practicable after the completion of the analysis of such food.

(c) Guidelines

The Secretary shall adopt standardized reporting guidelines to be applied to laboratories under this section and shall provide such guidelines to laboratories accredited under this chapter, as well as other sources of information regarding applicable pesticide chemical tolerances.

(Pub. L. 101-624, title XIII, § 1326, Nov. 28, 1990, 104 Stat. 3565.)

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§ 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

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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.

(Pub. L. 101–624, title XIII, § 1327, Nov. 28, 1990, 104 Stat. 3565; Pub. L. 102–237, title X, § 1017, Dec. 13, 1991, 105 Stat. 1904.)

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 subchapters I to IV (§ 601 et seq.) of chapter 12 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 601 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 (§ 451 et seq.) of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 451 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 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 this chapter, in subsec. (d), substituting provisions relating to laboratory accreditation programs under 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).

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§ 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.

(Pub. L. 101–624, title XIII, § 1328, Nov. 28, 1990, 104 Stat. 3565.)

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§ 138h. Regulations

The Secretary shall promulgate regulations to carry out this chapter.

(Pub. L. 101–624, title XIII, § 1329, Nov. 28, 1990, 104 Stat. 3565.)

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§ 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.).

(Pub. L. 101–624, title XIII, § 1330, Nov. 28, 1990, 104 Stat. 3565.)

TITLE 7 - Section 138i - Effect of other laws

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References in Text

The Federal Food, Drug, and Cosmetic Act, referred to in text, is act June 25, 1938, ch. 675, 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.