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94TH CONGRESS }
2d Session }

HOUSE OF REPRESENTATIVES }

REPORT
94-966



UNITED STATES GRAIN STANDARDS ACT OF 1976

MARCH 25, 1976.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. FOLEY, from the Committee on Agriculture,
submitted the following

REPORT

together with

MINORITY VIEWS, ADDITIONAL VIEWS, AND
DISSENTING VIEWS

[To accompany H.R. 12572]

The Committee on Agriculture, to which was referred the bill (H.R. 12572), to amend the United States Grain Standards Act to improve the grain inspection and weighing system, and for other purposes, having considered the same, reports favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 1, line 5, strike the word "said" and insert in lieu thereof the phrase "the United States Grain Standards".

Page 2, line 5, after the word "and" insert "by striking the period at the end of subsection (u) and inserting a semicolon in lieu thereof and".

Page 2, lines 18 and 23, page 3, lines 3, 7, and 12, strike the period at the end of each such line and insert in lieu thereof a semicolon.

Page 7, line 9, strike the words "in the fund" and insert in lieu thereof the word "as".

Page 9, line 24, strike the phrase "(4) of this subsection" and insert in lieu thereof "(3) of subsection (g)".

Page 16, line 19, strike the word "of" and insert in lieu thereof the word "or".

Page 18, line 4, strike the phrase "sections (e) and (f)" and insert in lieu thereof "section (e)".

Page 25, line 21, add after "inserting" the words "in subsections (a) (7) and (a) (8) the words 'or personnel of agencies delegated authority or of agencies or other persons designated under this Act' after 'personnel' and".

Page 28, line 1, after the colon insert "Sec. 16."

BRIEF EXPLANATION OF LEGISLATION

H.R. 12572 provides, as follows:

(1) Official inspection at export port locations would be carried out by the Federal Government either through USDA personnel or, in the discretion of the Secretary of Agriculture, through State agencies under the continuing oversight of the Secretary.

(2) Official inspection at interior locations would be carried out by State or local government agencies or private agencies designated by the Secretary. If a qualified designated agency was not available, the Federal Government would provide official inspection.

(3) To be eligible for designation an agency must have adequate facilities and qualified personnel, must not charge discriminatory or unreasonable fees, must not have a conflict of interest, and must meet other specified criteria.

(4) The conflict of interest requirement would prohibit an agency (including its officials and employees) from having a financial interest in any business involving the storage, commercial transportation, merchandising or handling of grain, except that a governmental agency, grain exchange, board of trade, or chamber of commerce could be designated if the conflict of interest were not such as to jeopardize the integrity or effective and objective operation of the system. The Secretary would specify State agency personnel to which conflict of interest requirements apply.

(5) The Secretary of Agriculture would be responsible for supervision of all weighing of grain at export port elevators and would carry it out with USDA personnel or, in his discretion, through State agencies under his continuing oversight.

(6) The Secretary could, if he wished, require that actual weighing and certification of weights and testing of scales at export port elevators be done only by USDA or by designated State or local government or private agencies that meet conflict of interest requirements and other specific criteria.

(7) No Federal controls would be provided of weighing services at interior points, but the Secretary would be required to make a study of the weighing system both at interior and export locations and submit legislative recommendations within a year of adoption of the Act.

(8) The Secretary would also be required to make a study of the adequacy of U.S. grain standards to meet end-use requirements of buyers, make changes deemed necessary, and report findings and action taken within a year after enactment of the Act.

(9) The civil and criminal penalty provisions have been strengthened for knowing violations of the Act. Bribery and intimidation offenses are made subject to the general criminal code and other violations subject to imprisonment of up to a year and a \$10,000 fine for initial offenses. The Secretary is also given the right to refuse inspection or weighing supervision services or to impose a civil penalty of up to \$50,000 after an administrative evidentiary hearing.

(10) The cost to the USDA under the Act would be offset largely by user fees. Fees would cover USDA costs of inspection and supervision of weighing and 75 percent of other expenses. When activities

are conducted by State or private agencies, fees would cover up to 75 percent of the total USDA expenses.

(11) The new requirements under the Act would be phased in over a two-year period.

PURPOSE AND NEED FOR THE LEGISLATION

H.R. 12572 arises from the growing need to strengthen and improve the grain inspection and weighing system so as to assure that our customers abroad will have faith in the integrity of the system and that they can receive the grade, quality, and quantity of grain for which they contract and pay.

In the last 15 years, the U.S. agricultural policy has become much more export oriented as grain production has increased to meet the growing world demand for food and feed grains. In that short period, U.S. grain exports have increased from slightly more than 1 billion bushels a year to some 3 billion bushels a year. During this period of export expansion, serious weaknesses in the national grain inspection service began to develop.

Irregularities in the inspection of grain under the U.S. Grain Standards Act did not become widely known until May of 1975, although the first indictments came as early as August of 1974. Since that time, investigations have gone forward in several areas into allegations that grain has been misgraded and short-weighted, that bribes have been paid to inspectors, that grain has been stolen systematically, and that other Federal laws have been violated. The first indictments involved seven Federally licensed grain inspectors in the New Orleans area who were charged with accepting bribes in exchange for certifying that ships were clean and acceptable for loading with grain. Overall, since August of 1974, there have been a total of 78 separate indictments including the indictment of seven firms. The different indictments involved theft of grain, misgrading, short weighing and improper storage examination as well as charges of bribery, violation of the Grain Standards Act, conspiracy to defraud, conspiracy to violate the Grain Standards Act, conspiracy to violate the Warehouse Act, and violation of the Internal Revenue Act. There were 30 guilty pleas, 43 not guilty pleas and 4 nolo contendere pleas to the 78 indictments.

Thus far, there have been 59 convictions with prison sentences of up to 181 days and probation up to five years. In addition, fines have been levied ranging from \$200-\$500 for individuals and from \$3,000-\$20,000 for the seven firms involved. The five grain firms convicted of grain inspection irregularities have, additionally, accepted an affirmative action plan laid out by the USDA. Other grain inspection irregularities are still under investigation, and it can be assumed there will be further indictments and convictions.

How important is our grain inspection system?

Last year, the United States exported \$21.9 billion worth of agricultural products, most of it grain which is subject to inspection under the U.S. Grain Standards Act.

Earnings from commercial grain exports made an important contribution, not only to farm income, but also to jobs in the transportation

and storage industries and to the overall economic recovery in this country in the latter part of 1975.

In addition, concessional sales under our Public Law 480 (Food for Peace) program made important contributions to farm income in this country and to the development of poorer countries and the war against hunger throughout the world.

The quality of American grain in world markets has been an important factor in the success of our commercial and humanitarian export programs.

It is essential to continued economic recovery, and for the economic position of the United States in the world for years to come, that the quality of American grain exports and the integrity of our grain inspection system be maintained at as high a level as possible.

Simply stated, grain customers in other countries will buy the best quality grain they can obtain, assuming that price, shipment terms, supply, and other factors are equal.

The legislation is designed to correct the defects that have given rise to widespread scandal and caused a loss of confidence in the U.S. grain inspection system. It provides essentially that official inspection at export port locations be the responsibility of the Secretary of Agriculture. The Secretary may provide for the work to be done either directly by USDA employees or, through a delegation of authority, by personnel of State agencies which would operate under his supervision and control. The Secretary would have complete discretion as to whether or not to make a delegation of authority to a particular agency and could revoke it at any time upon notice without a hearing. It was deemed desirable by the Committee to continue to allow the Secretary to make use of qualified State agencies, if he should desire, in areas where they have been doing a good job. Many such agencies have considerable expertise and have performed inspection services effectively and objectively (some up to 80 years) with no cause for complaint. If the use of such agencies were authorized, it would also reduce possible disruption to the system.

The bill also requires the Secretary of Agriculture to undertake supervision of weighing of grain at port elevators. For the first time, there would be Federal regulation of weighing of grain shipped in export channels. The necessity for such control has been made plain by the investigations and indictments regarding our grain handling system. As in the case of grain inspection at ports, the Secretary can exercise his authority directly through the use of USDA employees or through a delegation of authority to State agencies subject to his continued supervision and control. Responsibility for supervision of weighing would continue to lie with the Secretary.

In addition, the bill strengthens the system for official inspection at interior elevators by providing for designation of official inspection agencies only if they meet specified criteria, including a strengthened conflict of interest rule.

Penalty provisions of the Act have also been improved. Specific authorization is given for refusal of official inspection or weighing supervision to persons who violate the Act or provisions of criminal law relating to the handling of grain. In addition, provision is made authorizing civil penalties of up to \$50,000 for knowing violations subject

to evidentiary type hearings. The criminal penalties have been strengthened by providing that the provisions of the general criminal code shall apply to the more egregious offenses; namely, bribery, assault, intimidation, and interference with personnel conducting activities under the Act and that other offenses would give rise to penalties of imprisonment of up to a year and a fine of not to exceed \$10,000 for initial offenses.

In the wake of repeated scandals which call into question the integrity and effectiveness of our system for the inspection and weighing of grain, and in response to deep concern on the part of the Congress, the Department of Agriculture has established an affirmative action plan which places strong requirements upon grain exporting firms. The main limitations of this program, however, arise from the fact that, except where compliance is required by court order as the result of criminal proceedings, participation is strictly voluntary.

The bill, H.R. 12572, would place at the Secretary's disposal all the tools he requires for an affirmative action program in addition to providing stronger penalty provisions which would go a long way toward assuring compliance.

Prior to consideration of grain inspection legislation, it became apparent that the staff and resources of the Committee were not sufficient for the exhaustive investigation needed of the complex and far-reaching grain marketing system in the United States. Therefore, on June 24, 1975, the Chairman of this Committee joined with Senator Hubert H. Humphrey, Chairman of the Subcommittee on Foreign Agricultural Policy of the Senate Committee on Agriculture and Forestry, in requesting the Comptroller General to undertake a high priority investigation of grain marketing and inspection from farm field to foreign port utilizing the expertise and staff of the General Accounting Office. The Comptroller General responded admirably; and a report was issued on February 17, 1976. This report has been of great assistance to the Committee in its deliberations on grain inspection legislation.

There is set forth below the letter to the Comptroller General requesting the investigation, the letter of transmittal of the report and the digest of the Report on Irregularities in the Marketing of Grain—An Evaluation of the Inspection and Weighing of Grain, prepared by the United States General Accounting Office.

LETTER FROM HON. HUBERT HUMPHREY AND HON. THOMAS S. FOLEY
REQUESTING AN INVESTIGATION BY THE GENERAL ACCOUNTING
OFFICE

U.S. SENATE,
COMMITTEE ON AGRICULTURE AND FORESTRY,
Washington, D.C., June 24, 1975.

HON. ELMER B. STAATS,
*Comptroller General of the United States, General Accounting Office,
Washington, D.C.*

DEAR MR. STAATS: The current grain inspection scandal is a matter that deserves the immediate attention of Congress. It threatens the credibility of the United States as the largest exporter of agricultural commodities in the world.

In 1974, the United States exported \$22 billion of agricultural products. Of this amount \$12.5 billion of products were subject to inspection under the U.S. Grain Standards Act.

The United States had a trade deficit of \$5.8 billion in 1974. Had it not been for the fact that our net favorable balance of trade in agriculture was almost \$12 billion, we would have had a devastating trade deficit of almost \$18 billion.

Thus, it is imperative that we thoroughly examine and reform our grain export system, not only for the sake of American farmers, but for the strength of our entire economy.

We must have the resources and expertise of the General Accounting Office to accomplish this goal.

Specifically, we wish the General Accounting Office to assume the responsibility for a full and complete evaluation of the entire marketing chain for grain—from farm to foreign port. This evaluation must be directed at the impact of each aspect of the marketing process on the quality of U.S. grain.

This evaluation would include, but would not be limited to the following particulars:

(1) Determine the quality of grain at point of first sale and at each subsequent step in the marketing process.

(2) Determine the method of sale, handling, drying, and transportation and effect on quality at each such step.

(3) Determine the effectiveness of the organizational and management structure of the Federal inspection system and the reliability of its supervisory function on the entire inspection system. Include an evaluation of the contractual arrangements for inspector supervision by official inspection agencies. Determine the corporate relationship, if any, that exists between official inspection agencies and the firms for which inspection is performed.

(4) Determine the effectiveness and reliability of the present inspection system and weighing procedures from the farm to port. Evaluate the existing U.S. standards and grades for grain.

(5) Describe the legal and contractual responsibilities of buyers and sellers at each step in the marketing chain as they relate to quality and weights.

(6) Determine the operating procedures at port elevators both with respect to incoming and outgoing grain, particularly as they might affect quality of grain. In addition to general and specific treatment of management practices this should include data on surveillance, sampling, and loadings.

(7) Determine what happens on ships prior to, during, and after grain is loaded. Follow shipments from domestic port elevators to foreign ports and unloading. Also, determine the responsibilities of the ship owners and captains.

(8) Address the problems, if any, in P.L. 480 shipments and determine if they differ from commercial transactions.

(9) Evaluate the complaints received, method of handling, procedures, and responsiveness of the Federal government to such complaints, both formal and informal, regarding grain quality and weights for the last 10 years.

We suggest that you have investigators visit Canada or other major grain exporting nations for purposes of better evaluating the U.S. system.

The Senate Committee on Agriculture and Forestry and the House Committee on Agriculture desire to use the report of the General Accounting Office in their consideration of permanent changes in the existing U.S. Grain Standards Act, the U.S. Warehouse Act, and other statutes. Because of the importance of this subject to the national economy, it is imperative that this request receive priority rating and a final report be made to the Committees no later than February 15, 1976. We also anticipate that the General Accounting Office would keep the Committees posted at intervals by letter on the progress of the on-going investigation.

We appreciate your fine cooperation on prior investigations and look forward to an excellent effort on this investigation.

Sincerely,

THOMAS S. FOLEY,
Chairman, Committee on Agriculture,
U.S. House of Representatives.

HUBERT H. HUMPHREY,
Chairman, Subcommittee on Foreign Agriculture Policy.

LETTER OF TRANSMITTAL

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C.

HON. THOMAS S. FOLEY,
*Chairman, Committee on Agriculture,
House of Representatives.*

HON. HUBERT H. HUMPHREY,
*Chairman, Subcommittee on Foreign Agricultural Policy, Committee
on Agriculture and Forestry, U.S. Senate.*

DEAR MR. CHAIRMAN: This report discusses fundamental weaknesses in the national grain inspection system which require action by the Congress and the Secretary of Agriculture to restore the system's credibility and attain its intended objectives. The report also discusses the need for the Secretary of Agriculture to improve the procedures for handling complaints from foreign buyers of U.S. grain and intensify research and development on the official U.S. grain standards.

We made our review pursuant to your joint request. Department of Agriculture officials and staff gave us their full cooperation during the review.

The Department's comments have been incorporated in the report and its letter is included as appendix VII.

As agreed, we are sending one copy to the Secretary of Agriculture with the understanding that the contents are not to be released until the report or its contents are released by either of you.

After the report is released, we plan to send copies to the Secretary of State; the Director, Office of Management and Budget; the Chairmen of the Senate and House Committees on Appropriations, the Budget, and Government Operations; and other interested congressional committees, Members of Congress, and individuals.

Sincerely yours,

ELMER B. STAATS,
*Comptroller General
of the United States.*

D I G E S T

Serious problems exist in the national grain inspection system authorized by the U.S. Grain Standards Act. The Department of Agriculture's role as overall supervisor has serious inherent limitations. It has not been able to insure the integrity of a system operated by a widely dispersed group of over 100 State and private agencies and trade associations.

Although some inspection services have been satisfactory, the system generally has: Operated without effective controls, procedures, or lines of authority; tolerated conflicts of interest between the grain inspection and merchandising operations; and not been responsive to the limited supervision provided by the Department's Agricultural Marketing Service.

Grain exports are an extremely important factor in the U.S. balance-of-trade position. The 1974 crop of U.S. grains covered by the act was valued at about \$33 *billion*. During fiscal year 1975, U.S. exports of grain subject to inspection under the act totaled about \$12.5 *billion*.

Weaknesses in the national inspection system have led to extensive criminal abuses, such as intentional misgrading of grain, shortweighing, and using improperly inspected carriers. (See ch. II.) Disclosure of these matters in the world press and in congressional hearings has resulted in an erosion of confidence in the system in the United States and internationally.

Action is needed to restore credibility in the system, promote orderly grain marketing, protect buyers' and sellers' interests, and build confidence in the quality and consistency of U.S. grain at home and in world markets. Accordingly, fundamental changes are required in the system. An essentially all-Federal inspection system is needed to:

Restore integrity and confidence in the inspection system.

Provide greater uniformity and consistency in inspection procedures and operations.

Establish an independent system, eliminating actual and potential conflicts of interest.

Increase foreign trade or at least reduce chances of customers choosing to buy from other sources.

Develop an inspection force conforming to uniform hiring and training requirements.

Permit rotation of the inspection force among specific localities.

Provide for maximum use of standardized equipment and better maintenance of equipment.

Reduce the number of multiple or duplicate inspections presently required.

Reduce the number of inspection agencies to increase administrative efficiency.

Place inspectors under direct control of Agriculture, to provide more effective authority to deal with inspector deficiencies.

Eliminate present inequities whereby some inspectors earn annual salaries or incomes from \$30,000 to, in some cases, \$78,000.

Give Agriculture direct responsibility and authority to deal with elevators whose complex grain-handling systems allow for easy circumvention of controls over drawing of representative samples.

Recognizing that creating an essentially all-Federal system will take time and that, while some changes can be effected immediately, other changes, although urgently needed, will for practical reasons take more time to fully accomplish, GAO recommends that the system be established in phases as follows:

The Congress should

PHASE I

—provide Agriculture with authority to take over inspection services immediately from those States or firms where serious problems are disclosed.

—direct Agriculture to intensify surveillance over on-going inspection services being provided by the States, trade associations, and private agencies until phases II and III are implemented.

PHASE II

—authorize and direct Agriculture to assume responsibility at the earliest possible date for providing inspection services—sampling, grading, and weighing—and for issuing official inspection certificates at all port elevators.

PHASE III

—authorize and direct Agriculture to extend the Federal inspection system (including sampling, grading, and weighing) to the main inland terminals, after sufficient experience has been obtained at the ports.

—direct Agriculture to provide inspection services, on a request basis and under contracting or licensing arrangements, at minor inland terminals and country elevators. Such services should be provided under Agriculture prescribed standards and procedures and should be subject to departmental review and supervision.

The Congress should also establish the system on a reimbursable basis whereby the fair costs of operating the system would be recovered through fees.

Legislation and regulations developing standards and procedures for the system should give appropriate consideration to the following matters:

Conflicts of interest.—The system should prohibit all of these, actual and potential, and should impose appropriate penalties for violations on the part of grain handlers and inspection personnel.

Sampling grain.—Adequate controls and procedures should be established for this process, including equipment operation and maintenance. Automated equipment should be mandatory to the extent feasible.

Weighing grain.—Grain weighing should be made an integral part of the inspection system. Adequate controls, standards, and procedures should be established, including safeguards over equipment calibration and maintenance.

Grading grain.—The need for improved accuracy and uniformity should be met through continuing research and training.

Personnel administration.—Uniform standards for recruiting training, and supervising inspection personnel should be established and maintained, and a rotation program and work production standards for inspectors should be established.

General administration.—Quick and thorough reviews and investigations of reported discrepancies and abuses should be required.

Inspection certificates should clearly show whether Agriculture or other agencies prepared them.

The provision that superseded certificates be surrendered when repeat inspections are requested should be stringently enforced.

Instructions on examinations of stowage space in carriers should be revised to set forth training and performance requirements and to describe all situations where examinations should be required.

Appropriate annotations should be made on inspection certificates for grain loaded at Great Lakes ports stating that such certificates are not valid for transshipped grain.

To the extent practicable, grain inspection operations should be open to public scrutiny by foreign buyers or other interested parties.

Agriculture top officials reemphasized to GAO the Administration's desire to maintain the existing basic organizational structure for the national grain inspection system. Present problems and deficiencies, they maintained, can be corrected through improved administration, granting Agriculture additional authorities, and imposing more stringent penalties. Agriculture expressed agreement with most other aspects of GAO's recommendations.

GAO's view is that the Administration's proposal would retain many of the present system's fundamental disadvantages and limitations and that the deeply entrenched and pervasive problems of the past and present could not be dealt with effectively under such a system.

FOREIGN BUYERS' COMPLAINTS ABOUT U.S. GRAIN

Inquiries in nine foreign countries revealed much dissatisfaction with U.S. grain sold abroad. Many customers believed they regularly received lower quality and weight than they paid for. The resulting cost in terms of diminished foreign sales and other effects is not calculable. Many buyers said the United States would continue to be their principal grain supplier but that they had reduced their purchases of U.S. grain and were buying more from other countries. A few said they had stopped buying U.S. grain altogether.

Agriculture has not been sufficiently sensitive to foreign buyers' problems and has offered little assistance to them. Most Foreign Agricultural Service attaches GAO visited were not fully aware of the extent of foreign buyers' problems and said they lacked the authority, expertise, and resources for investigating complaints.

Procedures for handling foreign complaints were poorly defined and generally ineffectual. No central coordinating agency was designated

to insure that all complaints were recorded, investigated, and responded to and that the combined results were analyzed for possible use in reexamining inspection procedures.

Recommendations to the Secretary of Agriculture for improving the handling of foreign complaints are on page 62 of the GAO report. Agriculture agreed with the recommendations and outlined actions it was taking or would take.

THE U.S. GRAIN STANDARDS

Many persons pointed out that the U.S. grain standards do not include certain important grain quality indicators but include other relatively unimportant or unreliable indicators. According to one authority, the standards were developed and amended over the years primarily to meet the minimal needs of grain merchandisers, and the needs of growers and food processors were not considered adequately.

Certain respondents said greater emphasis was needed on developing standards which (1) stressed qualities relating to grain's end use, such as protein in wheat and oil and protein in soybeans, and (2) provide incentives to farmers to produce higher quality grain. Before certain refinements or changes can be made to the grain standards, however, new equipment or inspection techniques must be developed to readily ascertain grade in accordance with the proposed standards.

Agriculture has not been sufficiently concerned about the need for adequately directed and coordinated research on the grain standards by its several agencies. The Secretary should intensify research and development on the U.S. grain standards and provide for greater coordination among the departmental agencies with research and marketing responsibilities.

Agriculture concurred in the need for intensified research and development and said its agencies would jointly design and cost out priority research proposals.

* * * * *

BACKGROUND INFORMATION

A. Objectives and provisions of the U.S. Grain Standards Act

The objective of the U.S. Grain Standards Act is to provide farmers, grain merchandisers, processors, and consumers with quality standards¹ for specific grains and an official certification of that quality which can be uniformly applied in the trading of grain. Previous to the enactment of the U.S. Grain Standards Act of 1916, grain merchandisers gradually established their own standards and grading system on a market-to-market basis.

Some State-operated grading systems were developed. The need for an intermarket grain grading system became so apparent that in 1909, the Grain Dealers' National Association adopted national grade standards. However, these standards were permissive and did not involve standard grading procedures. An outgrowth of these events

¹ Standards describe and define specific quality characteristics and can be applied uniformly and consistently to grain, regardless of location, to define economic value and facilitate the sale and purchase of grain on the certified quality without a physical examination of the lot.

was the enactment of the U.S. Grain Standards Act which was a response to a recognized need for mandatory grade standards and a national grading system. The Act provided for grade standards for wheat, corn, oats, rye, barley, grain sorghum, flaxseed, and mixed grain. (The Act remained basically unchanged until 1968 when it was amended.) The original Act provided for mandatory national grade standards and a "two-level" national grading system; a primary level operated by State, trade, and privately-owned inspection agency employees licensed by the USDA; and a supervisory and appeal "referee" level operated by the USDA.

The Act contained some safeguards and inspection constraints on grain shipped by grade in interstate and foreign commerce. Specifically, the U.S. Grain Standards Act of 1916 authorized the Secretary of Agriculture to establish national quality standards for grain; to perform appeal and dispute inspections and collect fees for appeal inspections; and to license competent persons to inspect and grade grain and to suspend or revoke such licenses. (The licensing of State inspectors was mandatory.) The Act prohibited describing grain by any grade other than an official grade; required that grain sold by grade and shipped in interstate or export commerce from or to a grain inspection point be inspected and graded by a licensed inspector; required licensed inspectors to keep complete records; and provided penalties for shipping grain without inspection; for grading grain improperly; for issuing a false certificate of grade; for accepting bribes; and for forcibly interfering with an inspector. No provision was made for Federal inspection (other than an appeal or a dispute) or for designating, or revoking the designation of official inspection agencies. By inference, inspectors employed by States, counties, cities, towns, boards of trade, chambers of commerce, corporations, societies, partnerships, or associations were eligible for licenses, provided the inspectors were not interested, financially or otherwise, directly or indirectly, in any grain elevator or warehouse, or in the merchandising of grain, and were not in the employment of a person or corporation owning or operating a grain elevator warehouse.

Between 1916 and the present, only three bills were enacted which amended provisions of the original Act. In 1940, soybeans were added as a grain subject to the Act; in 1956, it was made unlawful to deceptively load, handle, or sample grain; and in 1968, the Act was revised and updated. Specifically, the Act of 1968 retained and added to the authorities granted to the Secretary with respect to establishing standards, licensing competent inspectors, and performing appeal inspection; retained and strengthened the inspection requirements for grain shipped in export commerce, but eliminated most of the inspection requirements for grain shipped in interstate commerce; retained the prohibition with respect to describing grain by any grade other than an official grade; transferred authority for the Federal inspection of U.S. grain being exported through Canadian ports from the Agricultural Marketing Act of 1946 to the U.S. Grain Standards Act; added prohibitions with respect to false representations in export commerce; prohibited designating more than one official inspection agency at any one time for any one city, town, or other area; provided for refusal of inspection service for cause; provided for the licensing of

samplers and technicians; provided for the triennial relicensing of inspectors, samplers, and technicians; strengthened the conflict of interest provisions and the recordkeeping provisions; prohibited additional deceptive or misleading practices; increased the penalties for violations; made principals responsible for the acts of their agents; authorized the Secretary to issue subpoenas; and prohibited States from requiring inspections as a condition of shipment, or sale, of grain in interstate or foreign commerce.

Under the Act of 1968, export grain sold by grade, is required to be inspected in accordance with the official standards on the basis of official samples obtained after final evaluation of the grain as it is being loaded aboard or while it is in the final carrier in which it is transported. The Act also requires that a valid official certificate showing the grade of the grain be promptly furnished by the shipper to the consignee with the bill of lading or other shipping documents covering the shipment.

The present system

In 1975, 3,000 people were involved directly in the grain inspection function. Included in the 3,300 were 815 officially licensed inspectors working under the supervision of 226 Federal people. Of the total of about 2800 State and private people involved, approximately 60 percent were part-time employees. In 1975, the 775 officially licensed inspectors made 3,424,348 inspections involving 9.07 billion bushels of grain. Approximately 3.3 billion bushels of inspected grain were exported at a value of \$15 billion.

By way of comparison, in the year 1960, there were 672 officially licensed inspectors working under the supervision of 205 Federal people. The 672 officially licensed inspectors made 3,058,349 inspections involving 6 billion bushels, of which 1.1 billion was exported at a value of slightly more than \$2 billion.

In 1975, there were 111 official inspection agencies giving service at 183 designated inspection points. Twenty-three of the 111 official inspection agencies were State operated inspection agencies, 47 private ownership inspection agencies, and 41 private agencies operated by boards of trade, grain exchanges and chambers of commerce.

As regards export grain inspections, 20 private official inspection agencies inspected approximately 2 billion bushels of grain while 11 State inspection agencies inspected the remaining 1.3 billion bushels of export grain.

The 2,800 persons employed by the 111 inspection agencies are licensed to inspect and sample grain, test grain for various factors and perform stowage examinations of containers to receive grain.

An applicant who desires to have grain officially inspected and graded applies to an official inspection agency for an original inspection. At the conclusion of the inspection, the applicant receives the original certificate of grade. The fee (cost) for the inspection is payable by the applicant to, and is retained by, the designated agency. The responsibilities of official inspection agencies (State and private agencies) under the Act are to provide inspection and sampling equipment and facilities, train personnel in inspection and sampling procedures, employ USDA licensed inspectors, samplers and technicians,

provide the inspection services to those requesting such services, establish a fee schedule for services and have it approved by the USDA, issue inspection certificates, and collect fees for services rendered.

At present, 226 USDA agricultural commodity graders are employed at 32 field offices strategically located to (1) monitor the accuracy of the original sampling, grading and other analyses performed by licensed grain inspectors, samplers, and technicians and to take corrective action, as necessary; and (2) to perform appeal inspections.

The U.S. Grain Standards Act prohibits the USDA from performing original inspections. Thus, USDA's basic responsibilities under the Act with respect to insuring the integrity of the grain inspection certificate issued by the official inspection agency are summarized as follows:

1. *Monitoring Accuracy.*—USDA employees supervise original inspections performed by licensed employees of the 111 official inspection agencies. Supervision of original inspections is accomplished through the use of several techniques.

a. Standing beside and working with individual licensed inspectors during the analysis to ascertain whether the analysis is being performed correctly and, if not, to effect corrections as necessary. This helps assure that the inspector is fully aware of the official USDA interpretation of the standards and grading procedures. Such supervision is referred to as "over-the-shoulder" supervision.

b. Analyzing the licensed inspector's file sample and comparing this analysis to that of the licensed inspector.

c. Drawing a second sample from the same lot and analyzing the sample. The procedure is used to check the sampling procedure as well as the licensed inspectors' capabilities.

d. Observing licensed samplers draw samples and making corrections in the sampler's procedures during the sampling.

e. Conducting training seminars to keep licensed inspectors abreast of latest grading problems.

2. *Appeal Inspections.*—If the applicant, or any other person who has a financial interest in the grain is dissatisfied with the grade assigned to the grain by the official agency or otherwise desires a Federal appeal inspection of the grain, he can, by complying with certain time, location, and fee requirements obtain a Federal appeal inspection by applying to a field office of the Department's Agricultural Marketing Service, Grain Division. At the conclusion of the appeal inspection, the applicant receives a Federal appeal grade certificate which supersedes the certificate issued by the official agency.

If the applicant is dissatisfied with the results of the appeal inspection he may further request that the appeal sample and analysis be forwarded to the Board of Appeals and Review, Beltsville, Maryland, for a final "high court" review. Thus, under the present system, an owner of grain has two options for a further analysis if he is not satisfied with the results of the original inspection.

The Departmental costs of designating agencies, licensing inspection personnel, and performing supervisory functions are financed by appropriated funds.

B. Grain weighing at U.S. elevators

Introduction

Presently, there are no Federal laws to regulate or supervise the weighing of grain. Those elevators licensed under the U.S. Warehouse Act, about 1500 of the 7000 public elevators handling grain, are required to license all personnel weighing and/or supervising weighing. The applicant for such a license is checked by a U.S. Warehouse Examiner to ascertain his competency and references as to his ability are contacted by mail. Some States license weighers, others do not.

A short summary of the methods now in use for weighing grain is set forth below. Accurate weighing basically depends on (1) the handling and weighing equipment, (2) the qualifications of the individual weighers, their integrity, practices, procedures and records and the kind, extent, quality of authority and impartiality of the supervision exercised.

At country elevators

When grain is delivered to a country elevator, it is usually transported in trucks hauling from 200-800 bushels. It is usually weighed by an elevator employee over a scale with a dial or a beam scale visible from the scale platform with the weight ordinarily punched on the scale ticket. These scales in most States are tested periodically, about once each year, by some agency of the State to make certain they are weighing correctly. Quite often, the elevator operator will secure additional tests by a private scale tester to assure himself that the scales are accurate.

On outbound weights at country elevators, the grain is weighed over 10-25 bushel automatic scales, hopper scales, track scales and in the case of trucks, over platform scales. These weights are usually used for the elevator operators stock records. The grain is usually sold basis destination weights and grades. The automatic and hopper scales are not always tested by the State agencies as they are not used for buying and selling grain. It would be extremely difficult, if not impossible, to establish official weights with an automatic scale.

At subterminal and terminal elevators

The bulk of these elevators, including some barge loading elevators, issue so-called "official" Weight Certificates. The criteria for these weights have been established by the Association of American Railroads, and the grain is weighed under the supervision of a disinterested supervisory weighing agency. There are about 300 such agencies serving the grain trade including State Weighing Agencies, Boards of Trade, Grain Exchanges, Chambers of Commerce, and independent operators.

The degree of supervision is governed by the AAR Market Classifications, of which there are four.

Class 1: Weight certificates issued by State Weighing Departments or Chambers of Commerce, Boards of Trade, Grain Exchanges, or other like trade boards where weighing is performed by authorized elevator employees under the continuous supervision of employees of any of the above organizations who witness the handling and weighing of all cars and/or contents.

Class 2: Weight certificates issued by or on authority of State Weighing Departments or Chambers of Commerce, Boards of Trade, Grain Exchanges, or other like trade boards where weighing is performed by authorized elevator employees under the supervision of employees of any of the above organizations who daily witness the handling and weighing of a representative number of cars and/or contents during each shift at each and every elevator. In most markets this supervision averages 25 percent of all weights.

Class 3: Weight certificates issued by or on authority of State Weighing Departments or Chambers of Commerce, Boards of Trade, Grain Exchanges, or other like trade boards which exercise little or no supervision over the handling or weighing of cars and/or contents by elevator employees.

Class 4: Weight certificates issued by individual mills and/or elevators under the heading of State Certificates of Weights and Measures, Public Weighmaster's Certificate of Weight and Measure under a State Department of Agriculture or Board of Commissioners as an Agency of a State, who assume the responsibility of testing scales but perform little or no supervision over the actual weighing of the grain by elevator employees.

All official weights in Kansas, Washington, Oregon, Alabama, and Virginia are mandatory Class 1 by State law. The States of Minnesota, Louisiana, Missouri, and Mississippi offer Class 1 weight supervision. Independent agencies are supervising some Class 1 weights in Illinois, Pennsylvania, and Louisiana. The bulk of the official weights is Class 2.25 percent supervision.

Supervision includes more than the supervision of the actual weighing of a lot of grain. It also includes responsibility for determining that all grain contained in a barge, car, truck, or vessel is removed and delivered to the scale without waste or loss on inbound grain and that all grain outbound is delivered from the scale to the conveyance for which intended. To accomplish this, the following, among other things, should be checked:

A. *Receiving pits or sinks* should be empty and free of any grain or foreign matter. Care should be exercised to see that they do not leak which would permit one load to become mixed with another or reduce the accuracy of the weighing.

B. *Elevator legs, spouts, and other equipment* used for conveying grain from carrier to scales or from scales to carrier should be examined to see that they are grain tight.

C. *Garner and scale hoppers* should be examined for leaks and be free of any grain or foreign matter before using to obtain official weights.

D. *Scales* should be kept in balance at all times and checked before each official use.

E. *Carriers* should be examined before and after loading to check for:

1. Condition of carrier
2. Location of defect or leaks in carrier
3. Grain left in carrier
4. Other conditions relating to loading or unloading.

F. *Scale tickets* should be recorded for each lot or draft of grain, with the exact weights of the grain.

SUMMARY OF BILLS

A number of bills have been introduced in the Congress over the past year which, in various ways, seek to improve grain inspection. Although the Committee ultimately chose as a markup vehicle its own Committee Print, concepts embodied in other legislation naturally influenced Members either directly or indirectly in establishing their positions with respect to the many issues involved. Because of their evolutionary significance, the key provisions of the major legislative proposals follow:

H.R. 8347 by Mr. Mezvinsky, et al.

1. Provides for a fully Federal inspection system.
2. Increases criminal provisions by making all violations a felony and stiffening penalties.
3. Strengthens conflict of interest language by eliminating Secretary's authority to exempt licensed employees of elevators and warehouses who perform sampling.

H.R. 8764 by Mr. Neal Smith

1. Provides all public inspection system which is all-Federal for export and State operated at interior points.
2. Conflict of interest provisions would prohibit inspection personnel from having financial interest in any business owning or operating grain elevators or warehouses and from engaging in the merchandising of grain.
3. Requires (with some exceptions) registration of persons engaged in the buying, handling, weighing, or transportation of grain in interstate or foreign commerce with authority for Secretary to suspend or revoke certificates of registration for cause.
4. Requires Secretary to issue regulations under which foreign material would be treated as dockage item.
5. Requires issuance of regulations for testing of protein content in wheat, such tests to be available upon request.
6. Requires changes in existing grain standards to encourage and reward production, handling, and delivery of high-quality grain.
7. All scales for weighing of grain required to be equipped with automatic device which stamps weight on ticket.
8. Includes prohibition against deceptive weighing among practices prohibited under the Act.
9. Increases criminal penalties for violations.
10. Provides funding through uniform fees.

S. 2256 by Senator Clark and H.R. 9697 by Mr. Melcher

1. Provides all Federal inspection system under jurisdiction of newly-created Federal Grain Inspection Agency.
2. Conflict of interest language prohibits inspection personnel from having any financial interest in or being employed by grain firms and from accepting gratuities.
3. Requires registration of all persons or firms engaged in handling, weighing, or transporting of grain.
4. Provides for standards to be set for weighing and for inspection and testing of all weights and scales, including those in warehouses.

5. Provides one-year emergency authority to issue rules and regulations for improvement of sampling equipment in export elevators and to establish standards and procedures for loading of export grain to minimize breakage or deterioration.

6. Provides new concept of criminal penalties modeled after S. 1 dependent on degree of culpability. Knowing or intentional violations made a felony. Reckless and negligent violations are made misdemeanors.

7. Deceptive weighing, adulteration of grain, bribery of official inspection personnel, and the killing of USDA employees are prohibited acts.

8. System financed through the collection of fees.

H.R. 9467 (upon request) by Mr. Foley and Mr. Wampler and S. 2297 by Mr. Dole

1. Continues present system of Federally-licensed State and private inspection agencies.

2. Provides authority for original Federal inspection on interim basis as needed.

3. Gives Secretary authority and appropriations for foreign monitoring activities.

4. Provides stringent conflict of interest provisions which preclude any agency from performing inspection whose employees, officers, members, or stockholders are engaged in or have an interest in a business involved in transportation, storage, merchandising or handling of grain.

5. Provides for triennial redesignation of inspection agencies to allow for review of performance, with authority for Secretary to revoke or suspend designations.

6. Increases Federal supervision from 269 to 444 man years.

7. Strengthens requirements for training, staffing, supervision, and reporting by inspection agencies.

8. Extends period for which back records must be kept by 3 years.

9. Requires installation of specified sampling and monitoring equipment.

10. Increases criminal penalties by making improper influence, assault, intimidation, bribery, and interference with official inspection personnel a felony.

11. Funding through a combination of collected fees and appropriated monies as at present.

S.J. Res. 88 by Mr. Humphrey

1. Provides temporary emergency powers to the Secretary to use funds of CCC for hiring of additional inspection personnel, use Federal employees to perform original inspection if needed, rotate Federal supervisory personnel, revoke designations of official inspection agencies having a conflict of interest, prescribe procedures for weighing and certification of the weight of grain delivered from any elevator or warehouse for transportation in interstate or foreign commerce, and conduct foreign monitoring.

2. Continues existing system of Federally-licensed State and private inspection agencies.

3. Provides for a strengthened conflict of interest rule.
4. Provides criminal provisions based on concept of degree of culpability similar to those of S. 2256 by Senator Clark.
5. Brings licensed inspectors not otherwise treated as USDA employees within scope of prohibitions against public bribery, makes it a Federal crime to kill, assault, intimidate, impede or interfere with USDA employees, and makes deceptive weighing a prohibited act.
6. Calls for a number of studies to be conducted in the various areas of the grain trade.
7. Provides temporary authority for Secretary to issue regulations and set standards to improve sampling equipment and practices at export elevators, to require installation of monitoring equipment at elevators, to regulate the loading of export grain, and to regulate and supervise weighing and certification of grain shipped from any elevator or warehouse in interstate or foreign commerce and to inspect and test weights and scales.
8. Places a number of reporting requirements on the Secretary for such things as foreign complaints, needed legislation to further improve Act, steps being taken by USDA, and the results of mandated studies.

SECTION-BY-SECTION ANALYSIS

Section 1.—This section cites the title of the Act as the "United States Grain Standards Act of 1976".

Section 2.—This section amends section 2, the purpose clause of the Act, to encompass the regulation of weighing of grain as provided in the Act.

Section 3.—This section amends section 3, the definition section of the Act, as follows:

Subsection (i) contains a revised definition of "official inspection" to include the three levels of official inspection (original inspection, reinspection, and appeal inspection) and the certification, by official inspection personnel, of the kind, class, quality, or condition of grain under the grain standards or, upon request, the quantity of sacks of grain or other facts relating to grain under criteria approved by the Secretary. It also clarifies the authority of the Secretary to determine the condition of carriers or containers for grain insofar as it may affect the quality or condition of the grain.

Subsection (j) which defines "official inspection personnel" is revised to include persons licensed or otherwise authorized by the Secretary pursuant to section 8 of the Act to perform specified functions of official inspection or in supervision of official inspection.

Subsection (m) contains a redefinition of "official inspection agency" to include any State or local government agency or any person designated by the Secretary under section 7(f) for the conduct of official inspection other than appeal inspection.

Subsection (v) defines the term "export port elevator" as any elevator, warehouse or other storage or handling facility at an export port location in the United States from which grain is shipped from the United States to any place outside thereof.

Subsection (w) defines "export port location" as a commonly recognized port of export in the United States or Canada, as determined

by the Secretary, from which United States grain is shipped to any place outside the United States.

Subsection (x) defines "supervision of weighing" as 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 grain intended to be weighed has been weighed and discharged where intended.

Section 4.—This section amends section 7 of the Act, as follows:

Subsection (e) is revised to provide for Federal inspection under the supervision of the Secretary of Agriculture at export port locations of all grain required or authorized to be inspected by the Act. The Secretary would have the option to carry out his responsibility directly through USDA employees or through qualified State agencies under a delegation of authority. It is expected that the Secretary would apply uniform standards for official inspection at ports and that the State agencies would be under continual Federal supervision and control. The Secretary, in his discretion, could revoke the delegation at any time upon notice without opportunity for a hearing. Under this provision the Secretary would have complete discretion over whether to allow a State to undertake delegated responsibility of performing Federal inspection. All the reins of control over standards of inspection, qualification of employees and fee schedules would remain with the Secretary so that the same uniformity of standards and guidelines of inspection practices could be accomplished either directly through Federal employees or through State employees through a delegation of authority.

The Secretary could require that the State agency abide by whatever Federal policies and practices are established on fees for inspection and, if he desired, provide that the fees would not cover more than the actual cost of service and would not be designed to provide revenue for other purposes. The only specific requirement in the bill limiting the Secretary's authority over fees is the requirement that it cover the portion of the Federal costs related to this function as provided in subsection (i). To the extent practicable, the Secretary would be expected to adopt and follow uniform practices on fees nationwide for export inspection and uniform qualifications and expertise required for employment. He would not be expected, however, necessarily to require identical terms and conditions of employment.

This subsection also authorizes the Secretary to provide that grain loaded at an interior point into a barge or other container as the final carrier in which it is to be transported from the United States could be inspected as provided for under this subsection. Finally, this subsection authorizes the Secretary to arrange with persons under contract with the Department under section 8 of the Act to perform specified sampling and laboratory testing functions such as protein testing of wheat. It was the intent that these contract personnel would be used on an occasional basis only and would not be employed as an official inspection agency. The USDA would, of course, have the responsibility to assure that the job undertaken by contract personnel was done properly.

Problems have arisen in the past with respect to U.S. grain which is exported from Canadian transfer elevators. Frequently U.S. grain

is loaded into lake vessels at Great Lakes ports and unloaded and stored on a commingled basis in Canadian transfer elevators before being reloaded aboard ocean-going vessels for export. At times, when this occurs, the grain exported from Canada has not been regraded when reloaded for export but, instead, delivered under the original inspection certificate known as a Western grade certificate. This practice would not be consistent with requirements of this subsection where the grain had been commingled in storage at the Canadian port and has lost its identity. It is intended that such grain when exported from Canadian transfer elevators be inspected as provided in this subsection assuming, of course, that it is sold for export by grade.

Subsection (f) (1) provides that, with respect to official inspection other than at export locations, the inspection would be conducted by State or local government or private agencies designated by the Secretary after they had satisfied the Secretary that they had complied with specified criteria. Included among those criteria, the agency must show that it has adequate facilities and qualified personnel, it will conduct necessary training and provide the necessary supervision of its personnel, it will not charge discriminatory or unreasonable fees, and that the agency and any related entities do not have a conflict of interest as prohibited by section 11.

Paragraph (2) of that subsection provides that not more than one official inspection agency can be designated under subsection (f) at any one time for any geographic area unless it was operative in the area on August 15, 1968. No State or local governmental agency or person can provide official inspection under the Act except pursuant to an unsuspended and unrevoked delegation of authority or designation by the Secretary.

Subsection (g) provides conditions for termination or changes in designation of official inspection agencies.

Paragraph (1) provides that the designation shall terminate at such time as specified by the Secretary but not later than triennially and may be renewed.

Paragraph (2) provides that the Secretary may amend the designation at any time upon application by the agency and may cancel the designation upon request upon 90 days written notice, subject to payment of fees to cover the costs to the Department in connection therewith.

Paragraph (3) authorizes revocation of a designation, after opportunity for a hearing, if the Secretary determines the agency has failed to meet any of the criteria required for the performance of official inspection functions or has not complied with provisions of the Act or regulations or instructions issued thereunder or has been convicted of a violation of Federal law. A designation may be suspended, without opportunity for a hearing, if the Secretary believes there is cause for revocation and considers the action to be in the best interest of the system, subject to affording the agency an opportunity for a hearing within 30 days after the suspension.

Subsection (h) authorizes the Secretary to provide for official inspection by USDA employees at any interior locations where the Secretary determines that official inspection is needed, that no official inspection agency is available on a regular basis to provide official

inspection, and that none is available within reasonable proximity to provide the service on an interim basis. USDA inspection would be performed only until such time as the service was available on a regular basis by an official inspection agency.

Subsection (i) provides for the collection of fees which largely affect the Department's costs under the program.

Paragraph (1) provides that if the Department conducts official inspection it shall collect fees that shall as nearly as practicable, after taking into consideration any proceeds from the sale of samples, cover the Department's costs including 75 percent of the estimated supervisory and administrative costs related to official inspection.

Paragraph (2) provides that if official inspection is conducted by a designated agency or a State agency to which authority has been delegated, the agency shall pay to the Secretary fees determined to be fair and reasonable and, as nearly as practicable, that will cover the costs incurred by the Department connected with its direct supervision of official inspection agency personnel and direct supervision by Department personnel (outside of the Washington office) of its field office personnel. The fees, however, shall not exceed 75 percent of the estimated total Federal costs incurred in connection with official inspection except costs connected with proceedings involving violations of the Act. The fees would be payable only after the services are performed at such times as specified by the Secretary. Failure to pay the fees when due would result in termination of the delegation or designation to be reinstated upon payment of the fee due plus interest and costs within a specified period. All fees collected under subsection (i) are to be deposited in miscellaneous receipts of the U.S. Treasury. It is intended under these provisions that the Department would continue to be reimbursed for its expenses incurred in connection with appeal inspections in the same manner as in the past, and that these costs would not be borne by the Federal Government.

Section 5.—This section adds a new section 7A related to weighing.

Subsection (a) requires that all grain received at or shipped from export port elevators, except as the Secretary may provide in emergency or other unusual circumstances, must be weighed. The supervision of the weighing of all such grain must be carried out by the Federal Government. The Secretary of Agriculture can provide that the personnel to be used for this purpose shall be USDA personnel, or, in his discretion, he may delegate authority to a State agency which he finds qualified to perform such supervision subject to his continued supervision and oversight. Any such delegation may be revoked by the Secretary in his discretion at any time upon notice without opportunity for a hearing. If an agreement can be negotiated with the government of Canada to provide for U.S. supervision of weighing of U.S. grain received at or shipped from Canadian port elevators, the requirements of this subsection would also apply to U.S. grain so received and shipped.

The Secretary would have discretion to determine the extent to which he would provide for supervision of weighing at any port elevator—i.e. whether supervision should be on a continuous or less frequent basis. The Committee notes, in this regard, that under his affirmative action program the Secretary is seeking to obtain agreement

from all grain exporters to continuous supervision of weighing. That program is dependent on the voluntary cooperation of many of the exporters (except for those required to do so under court order as a result of criminal proceedings). This provision would give the Secretary the necessary tools to assure compliance with his request.

It is expected that to the extent practicable the Secretary would attempt to coordinate the work involved in Federal supervision of weighing and grain inspection so that costs would be maintained at a minimum and if possible provision made for the use of common personnel.

Subsection (b) provides requirements which must be satisfied by the operator of the elevator before he would be eligible to receive the weighing supervision provided for in the Act. The operator must demonstrate that (1) he has suitable grain handling equipment and accurate scales and will cause the scales to be tested by competent agencies at suitable intervals; (2) he will employ only competent and honest personnel to operate the scales and conduct weighing functions and (3) he will require that when weighing is done by elevator employees each lot of grain is entirely removed from the conveyance and without avoidable loss or waste delivered to the scales and that after it has been weighed delivered to the conveyance for shipment.

Subsection (c) authorizes the Secretary, in his discretion, to provide that the actual weighing and certification of weights and the inspection and testing of scales (or any one or more of such functions) at any export port elevator shall be performed either by USDA employees or by designated State, local or private agencies. The Secretary may designate an agency to perform such functions if it meets certain specified criteria similar to those provided in the Act for official inspection agencies and including a requirement that it does not have a conflict of interest prohibited by section 11. The designations are made subject to the same provisions for termination or revocation as provided for official inspection agencies under section 7(g).

Subsection (d) authorizes the Secretary to investigate the weighing and certification of weights of grain shipped in interstate or foreign commerce and to require by regulation maintenance of accurate records of weighing of grain for such period as he determines necessary. The Secretary's authority under these provisions is intended to apply both at export and interior locations. This provision, coupled with the provision granting USDA personnel access to storage or handling facilities, would allow the USDA to assure itself that there was a proper reconciliation of the grain received at a facility and the grain shipped therefrom. In addition, the Secretary may prescribe by regulation for export port elevators at export port locations the standards, procedures and controls for accurate weighing and certification of weights of grain.

Subsection (e) requires the Secretary to conduct a study concerning the supervision of weighing, the weighing and certification of weights of grain, and the inspection and testing of scales used in the weighing of grain at both export port elevators and other than export port elevators. The Secretary shall report the results of the study to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry not later than twelve months after the effective

date of this Act, together with any recommendations for legislation that he determines necessary for strengthening the adequacy and reliability of the system.

Subsection (f) provides the means for enforcement of the weighing provisions of the Act. It states that no State or local governmental agency or person shall weigh or state in any document the weight of grain determined at a location where weights are required to be supervised or the weighing or inspection and testing of scales is required to be performed as provided for in this section, except in accordance with the procedures prescribed pursuant to this section. No person shall use any scales which have been disapproved by the Secretary or a State or local government agency or person designated by the Secretary. A violation of this subsection is considered a prohibited Act under section 13, as amended by this Act, and subject to criminal and civil penalties.

Subsection (g) provides that the weighing requirements of section 7A do not limit the authority of the Secretary under the United States Warehouse Act.

Subsection (h) requires that representatives of the Secretary be afforded access to any facility from which grain is delivered for shipment in interstate or foreign commerce and to which grain is delivered from shipment in such commerce.

Subsection (i) provides for the collection of fees to offset the major part of the costs of USDA incurred under the weighing provisions of the Act in a manner similar to that provided for fees for official inspection functions.

Paragraph (1) requires that where the USDA performs weighing functions itself (i.e. supervision of weighing, actual weighing and certification of weights and testing of scales), the fees shall as nearly as practicable cover its costs including 75 percent of the total supervisory and administrative expenses related to such services.

Paragraph (2) provides that where an agency or person performs functions relating to weighing under section 7A, it shall pay to the Secretary fees as he determines fair and reasonable and as will cover the costs incurred by the Department outside of the Washington office as a result of these functions but not in excess of 75 percent of the estimated total Federal costs (except costs related to revocation of authorizations and enforcement of civil and criminal provisions). The fees are payable only after the services are performed at times specified by the Secretary, and all fees collected under subsection (i) are to be deposited in miscellaneous receipts to the United States Treasury.

Section 6.—This section amends section 8 of the Act by amending subsections (a), (b) and (d) and adding a new subsection (e).

Subsection (a) of section 8 authorizes the Secretary to (1) license individuals of an official inspection agency or a State agency delegated inspection functions to perform original inspection or reinspection functions, and (2) authorizes USDA employees to perform original inspection, reinspection or appeal inspection functions involved in official inspection of grain in the United States or of U.S. grain in Canadian ports and to supervise official inspection of grain. The Secretary may also contract with competent persons to perform specified sampling and laboratory testing and license persons to perform these

functions under such a contract. No person can perform any official inspection functions unless he holds an unsuspended or unrevoked license of authorization from the Secretary. A violation of this provision is a prohibited Act subject to criminal and civil penalties.

Subsection (b) is amended to provide that the provisions now in the Act relating to termination of licenses shall apply not only to licensed employees of an official inspection agency but also to employees of a State agency under a delegation of authority pursuant to section 7(e).

Subsection (d) is amended to provide that persons employed by a State agency under a delegation of authority under sections 7(e) and 7A and persons employed by designated agencies to perform official inspection or weighing functions shall not be considered employees of the Federal Government, except that when performing such functions (1) they shall be considered as employees of the Department assigned to perform inspection functions for the purposes of the provisions of 18 U.S.C. 1114 and 111, which make it a crime to kill, assault, impede or intimidate inspection officials; and (2) they shall be considered as persons acting for the United States for the purposes of 18 U.S.C. 201 which relates to bribery of public officials.

Subsection (e) is amended to authorize the Secretary to hire without regard to Civil Service requirements persons to perform official inspection functions and supervisory, weighing, or other weighing functions if they were currently licensed to perform official inspection functions or they were currently performing similar functions in the case of functions related to weighing. The Committee intends that fairness and equity be shown in the employment of persons working for private and public agencies who are displaced because of Federal preemption of inspection and weighing functions under this Act. If qualified, the Committee expects that these people be given preference in employment to fill available positions over other new applicants, and that, insofar as practicable, they be considered along with qualified employees of the Department for positions of at least comparable responsibility and rank to that enjoyed in the private or State system. In setting their pay within the appropriate grade, to the extent possible, cognizance should be taken of the rank, benefits and longevity the employees had under the system where employed."

Section 7.—This section amends section 9 to authorize the Secretary to summarily revoke a license if the licensee has been convicted of an offense prohibited by section 13 or of an offense prohibited by title 18 of the United States Code with respect to functions performed under the Act.

Section 8.—This section amends section 10 of the Act so as to provide for refusal of inspection and weighing services and civil penalties for violations.

Subsection (a) amends the title of section 7.

Subsection (b) amends subsection (a) to authorize the Secretary to refuse to provide official inspection or services related to weighing with respect to any grain offered for such services if he determines (1) that the individual or, in the case of a business entity, any individual responsibly connected with the business has knowingly committed a violation of section 13 or been convicted of a violation of Federal law related to handling, weighing or official inspection of grain or that

these services have been refused for the above specified causes to a person with which such individual was or is responsibly connected, and (2) that providing these services would be inimical to the integrity of the system.

Subsection (c) amends subsection (c) of section 10 and adds a new subsection (d) and (e) to section 10.

Subsection (c) authorizes a civil penalty of not to exceed \$50,000 to be imposed against any person who has knowingly committed a violation of section 13 or has been convicted of a violation of other Federal law with respect to the handling, weighing or official inspection of grain. The civil penalty may be in addition to or in lieu of criminal penalties and refusal of official inspection and weighing services.

Subsection (d) requires that before inspection or weighing services may be refused to any person or a civil penalty assessed the person must be afforded an opportunity for an evidentiary hearing in accordance with the Administrative Procedure Act (5 U.S.C. 554, 556 and 557).

Subsection (e) provides that civil penalties shall be deposited in the general fund of the United States Treasury. It also provides that civil actions to collect penalties shall be filed in the appropriate United States district court and provides such court with jurisdiction to decide any such action.

Section 9.—This section adds new conflict of interest requirements to section 11 of this Act. It designates as subsection (a) the conflict of interest provisions that now apply to persons licensed or authorized to perform official inspection functions. A new subsection (b) is added which imposes conflict of interest requirements on official inspection agencies and State agencies delegated official inspection authority, State agencies delegated supervision of weighing authority and State or local agencies or persons designated to perform weighing functions.

Paragraph (1) provides that no official inspection agencies or State agencies delegated inspection authority or any officer or employee (and no entity related to any such agency) shall be employed in or otherwise engaged in or either directly or indirectly have any financial interest in any business involving the commercial transportation, storage, merchandising or handling of grain or use of official inspection services. Further, no entity conducting any such business or any official or employee thereof, and no business or governmental entity related to any such entity, shall operate or be employed by or have any financial interest in an official inspection agency or a State agency delegated inspection authority. This subsection does not preclude a situation where an official inspection agency or State agency with delegated authority has an official or employee who is a producer, if the producer is hauling or handling his own grain or if the inspection service performs inspection on the producer's grain so long as the producer is not in any way involved in the inspection of grain in which he has an interest. This subsection prohibits a substantial stockholder in any incorporated official inspection agency to be employed in or be a substantial stockholder in a corporation conducting any of the aforementioned types of business, nor can a substantial stockholder in any corporation conducting any such type of business operate or be employed by or have a financial interest in an official inspection agency.

Paragraph (2) defines a substantial stockholder as a person holding 2 percent or more or 100 shares or more, whichever is lesser, of the voting stock of a corporation. An entity is considered related to another for the purpose of the conflict of interest provisions if it owns or controls, or is owned or controlled by the other or if both are owned or controlled by another entity.

Paragraph (3) makes the provisions of paragraphs (1) and (2) applicable to State agencies delegated supervision of weighing authority and State or local agencies or other persons designated by the Secretary to perform services related to weighing.

Paragraph (4) provides that in the case of a State or local governmental agency to which a conflict of interest provision applies, the Secretary shall specify the officials and other persons which will be covered by the conflict of interest provisions of subsection (b). Thus, a State agency would not be barred if an official whose duties were completely removed from the matters at issue might have a conflict of interest.

Paragraph (5) provides that, notwithstanding the other provisions of subsection (b), the Secretary may delegate authority to a State agency or delegate a governmental agency, board of trade, chamber of commerce or grain exchange to perform official inspection or to perform services related to weighing if he determines that any conflict of interest that may exist is not such as to jeopardize the integrity or the effective or objective operation of the functions performed by the agency. The Secretary may likewise designate a private firm upon such a determination for purposes of services related to weighing only.

Subsection (c) provides that the conflict of interest provisions shall not prevent an official inspection agency from engaging in the business of weighing grain.

Section 10.—This section amends section 12 of the Act which deals with recordkeeping by official inspection agencies.

Subsection (a) extends the recordkeeping requirements that currently apply to official inspection agencies to persons licensed to perform any official inspection function under the Act.

Subsection (b) adds a new subsection (d) to section 12 to require that persons who obtain official inspection must for a five-year period maintain complete and accurate records of official inspection and any other activity conducted by it with respect to grain and permit authorized representatives of the Secretary, at all reasonable times, access to the facility used by such person for the handling of grain as well as access to such person's records.

Section 11.—This section amends section 13 which lists prohibited acts.

Subsection (a) extends the provisions of subparagraphs (a) (7) and (8) which currently apply to official inspection personnel to include personnel of delegated and designated agencies. It also adds to the prohibited acts violations by any person of subsection 7(f) (2) (which provides that no governmental agency or person can provide official inspection except pursuant to an unsuspended and unrevoked delegation of authority or designation) and section 7A (which relates to the weighing provisions of the Act).

Subsection (b) would add new subsections (a) (12) and (a) (13) to make it a prohibited act for a person to knowingly engage in falsely stating or falsifying the weight of grain shipped in commerce. It would also make it a prohibited act to knowingly prevent or impede a person having a financial interest in grain or his agent from observing the loading of grain inspected under the Act and the weighing, sampling and inspection of such grain under conditions prescribed by the Secretary. This section, however, is not designed to authorize a person to look over the shoulders of an inspector who is analyzing samples in a laboratory for the purpose of determining the class, grade or condition of the grain, thereby subjecting him to undue influence and preventing an impartial analysis.

Subsection (c) would provide that no person licensed or authorized to perform any function under the Act shall knowingly perform improperly any weighing function under the Act.

Section 12.—This section amends 18 U.S.C. 1114 to enlarge the coverage of USDA employees which are given the protection of this and a related provision of title 18. This section would make it a Federal criminal offense for a person to kill an officer or employee of the Department of Agriculture assigned to perform investigative inspection, or law enforcement functions, while engaged in the performance of his official duties, or on account of the performance of his official duties. It would also give them the protection of 18 U.S.C. 111 by making it a criminal offense if a person forcibly assaults, impedes, intimidates or interferes with any such person while engaged in or on account of performance of his official duties. This amendment would give the listed employees the benefit of the same protection that is afforded by these criminal provisions to officials or employees of the Department of Health, Education and Welfare or the Department of Labor. Scandals that have occurred in the Gulf ports have pointed up the necessity for providing this type of protection to the listed employees.

Section 13.—This section amends section 14 of the Act to enlarge the criminal penalties for persons who commit an offense prohibited by section 13.

Subsection (a) of section 14 is amended to provide that offenses prohibited by section 13(a) (7) (improperly influencing or attempting to influence official inspection personnel or any officer or employee of the Department of Agriculture with respect to the performance of his duties under the Act), (a) (8) (forcibly assaulting, impeding, intimidating, etc. any such personnel), and (b) (4) (accepting money or other consideration for neglect or improper performance of duty under the Act) shall be subject to penal statutes in title 18 of the United States Code relating to crimes and offenses against the United States. These offenses are the type of offenses covered by 18 U.S.C. 1114 and 111 and 18 U.S.C. 201. It also provides that a person who commits any other offense prohibited by section 13 shall be subject to imprisonment for not more than 12 months or a fine of not more than \$10,000 (or both) and, for subsequent offenses, to imprisonment of not more than 5 years or a fine of not more than \$20,000 (or both).

Subsection (b) provides that the Secretary would not be required to report minor violations for criminal prosecution if he believes that

the public interest would be served by a suitable written notice of warning or by a proceeding under section 10 of the Act and he institutes such a proceeding.

Subsection (c) would make it clear that officers or employees of the Department assisting to perform weighing functions would be considered as employees assigned to perform inspection functions for the purposes of the criminal provisions of 18 U.S.C. 1114 and 111.

Section 14.—This section amends section 16 of the Act which relates to general authority conferred upon the Secretary. It would add authority for the Secretary to require as a condition for official inspection (1) that there be installed specified sampling and monitoring equipment in grain elevators, (2) that approval of the Secretary be obtained as to the condition of carriers and containers for transporting or storing grain, and (3) that persons having a financial interest in the grain to be inspected or their agents can observe the weighing, loading and official inspection under conditions prescribed by the Secretary.

Section 15.—This section amends section 17(g) which relates to disclosure of information by USDA employees. It extends the coverage of existing law to additional categories of employees and provides for additional exceptions. It would prohibit present or former employees of the Department, or of State agencies delegated authority under the Act, or agencies designated to perform weighing or inspection functions to make public information obtained under the Act, unless pursuant to authority from the Secretary a court order, other law enforcement proceedings or a request from a committee of the Congress. It makes clear, however, that this provision does not in any way prohibit a person from divulging information which he reasonably believes involves conduct prohibited under the Act or under title 18 of the United States Code.

Section 16.—This section amends section 19 of the Act to authorize appropriations for all Federal costs incurred under the Act.

Section 17.—This section directs the Secretary to conduct an investigation, and make a study regarding the adequacy of the current grain standards established under the Act to assure that producers and others are encouraged and rewarded for the production, maintenance and delivery of the quality of grain needed to meet the end-use requirements of buyers. The Secretary is required to make changes in the standards as he determines necessary and to report to Congress not later than one year after enactment of the Act the findings of the study and action taken by him. For the purpose of the study, the Secretary may employ representatives of the grain trade, land grant colleges, and members of the public without regard to Civil Service rules on appointments in the Federal Service.

Section 18.—This section would add a new section 20 which would require that on February 1 of each year the Secretary submit to the House Committee on Agriculture and Senate Committee on Agriculture and Forestry a summary of complaints received from foreign purchasers interested in the trade of grain, other than complaints which the Secretary does not reasonably believe to be valid.

Section 19.—This section requires a report to the House Committee on Agriculture and the Senate Committee on Agriculture and For-

estry one year after the effective date of the Act setting forth the progress in implementing provisions of the Act.

Section 20.—This section provides the effective date of the provisions of the Act. The Act shall become effective 30 days after enactment, except that any agency or person then providing official inspection service in any area or supervision of weighing at an export elevator may continue to operate in that area without a delegation or a designation for a period of up to 2 years, as determined by the Secretary, or unless the agency or two or more employees have been convicted of a violation of the Act or of any other Federal offense involving the handling or official inspection of grain, or a delegation or designation is granted or denied under the Act, whichever occurs first.

COMMITTEE CONSIDERATION

Hearings

Hearings on grain inspection legislation were held by the House Agriculture Committee on September 19, 22, 23, and 24, 1975. At that time, before the Committee were H.R. 9467, a bill introduced at the request of the Administration, and several other proposals discussed elsewhere in this report. Five Members of Congress testified, including Senator Dick Clark, and Representatives Bill D. Burlison, Edward Mezvinsky, Albert H. Quie, and Neal Smith. In addition, testimony was received from the Department of Agriculture and 40 other persons including representatives from major farm organizations, grain organizations, labor unions, State Departments of Agriculture, private inspection agencies, licensed grain inspectors, grain exchanges, weighmaster organizations and others. Many letters from interested parties were also included in the record.

Members of Congress testifying before the House Agriculture Committee on the subject of grain inspection all favored a greatly increased Federal presence in grain inspection and related activities. Of the five Members testifying, all agreed that public inspection was essential to an objective, reliable system since the potential for conflicts of interest was inherent in inspection by private enterprises. All five Members of Congress agreed that the inspection of grain for export, because of its importance to not only our balance of payments but to our national reputation abroad, should be performed exclusively by employees of the Federal Government. Beyond unanimous accord in the belief that the system should be strictly public in nature and that export inspection should be Federal, two basic approaches emerged as a means of dealing with the problems of inspection.

Senator Clark, Congressman Mezvinsky, and Congressman Bill Burlison all felt that the only way to eliminate abuses and corruption was through an all-Federal system for both export and interior inspection. In addition, Senator Clark supported the creation of a separate Federal Grain Inspection Agency within the Department of Agriculture to assume the responsibility for grain inspection, which is currently under the jurisdiction of the Grain Division within the Agricultural Marketing Service. Congressman Neal Smith and Congressman Quie, on the other hand, felt that the responsibility for inspection other than for export should rest with the States through cooperative agreements. It was generally conceded that criminal penalties should

be more stringent. Finally, both Congressman Smith and Senator Clark, as well as the supporters of their respective positions, felt that the problem of deceptive or fraudulent weighing should be addressed in any legislation reported by the Committee as a violation of the Grain Standards Act and that steps should be taken to eliminate the practice of adulterating grain. Senator Clark, Congressmen Burlison, Mezvinsky, and Smith are all authors of Grain Inspection bills which are discussed in greater detail elsewhere in this report.

The majority of the general farm organizations and the grain commodity organizations recommended that Federal supervision be increased, that conflicts of interest be prohibited, and that export inspection be either by the USDA or qualified State inspection agencies. Other actions generally recommended by these organizations included the regulation of weighing and an updating of the grain standards to adjust the quality measurement to reflect changing production and end-use requirements.

The grain trade organizations recommended that the present system be continued with increased Federal supervision and increased penalties for violations of the Grain Standards Act. These organizations strongly opposed federalizing the system because of the fear of significantly higher inspection fees as well as the fear of bureaucratic inflexibility which might limit the ability of the industry to meet the export goals.

Labor unions generally supported the continuation of the present inspection program with increased Federal supervision.

The State Departments of Agriculture testifying recommended that State agencies continue to do export inspections but under closer Federal supervision. These organizations stated that it would cost much more for USDA to do export inspections than it does to have State agencies doing the inspecting. They also pointed out that if State agencies doing export inspections were to lose that authority, then it would be much more difficult and expensive for the State agency to provide inspection service at the inland points.

The private inspection agencies and the licensed inspectors testified in behalf of continuing the present system under increased Federal supervision. They emphasized that simply because some inspection agencies and their personnel had been found guilty of irregularities in the Gulf area, not all private agencies should be eliminated. They stated that with adequate supervision and increased penalties for violations of the Act, most of the present weaknesses would be removed. Private agencies operating at inland points testified that the system of checks and balances which resulted from their providing service for both the buyer and seller amounted to self-policing and, consequently, that conflict of interest problems were negligible.

At the hearings, Assistant Secretary Feltner, appearing in behalf of the U.S. Department of Agriculture, testified as follows:

STATEMENT OF RICHARD L. FELTNER, ASSISTANT SECRETARY, MARKETING AND CONSUMER SERVICES, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the committee, we appreciate this opportunity to appear before your Committee today to present the Department's views on legislation designed to improve the national

grain inspection system. We welcome your concern and interest in helping the Department develop and implement a system of grain inspection which will help assure the integrity of U.S. grain inspection certificates both in this country and abroad.

The Department has submitted legislation to the Congress which has been introduced as H.R. 9467 and S. 2297. Our testimony today will address these proposals.

The Department initiated investigations at New Orleans 2 years ago involving allegations of violations involving the grain inspection system. As a result of that investigation and investigations by the FBI, U.S. Attorneys, and Federal Grand Juries, a total of 63 indictments have been issued. A total of 14 licensees and 3 former licensees were indicted. We temporarily suspended the licenses of all 14 of the licensees soon after their indictments. Currently, 6 of the licenses have been revoked, 7 of the licenses have been charged resulting from the indictments and 11 of the licenses are still temporarily suspended because a final conclusion has not been reached on the criminal indictments.

The investigations are continuing by these investigatory bodies in addition to investigations by GAO, IRS, and several congressional committees. Virtually, every U.S. port where grain inspections are performed will be included in the investigations. In addition, the investigations are expanding to inland locations.

Because of these investigations of irregularities in the grain inspection system, serious questions have been raised about the adequacy of the current public/private system of grain inspection and the ability of certain official inspection agencies to objectively inspect grain and to control the actions of some of their employees. The investigations thus far have highlighted the inability of some private inspection agencies to obtain objective, uniform, and in some cases, honest application of the U.S. standards for grain, particularly with respect to export grain. A basic defect in the present system is the inherent conflict of interest which now characterizes many of the private inspection agencies and the Department's inability to adequately supervise and control their activities under the Act, and to perform original inspections in the United States.

At the time of our appearance before the Senate Committee on Agriculture and Forestry on June 19, 1975, we indicated that the Department had under consideration a number of alternatives to revamp and improve our national system of grain inspection. After consideration and somewhat lengthy deliberations over the various alternatives, the Department has developed a proposal which we believe, will overcome shortcomings in the existing system and which will restore integrity to our national grain inspection system. Through the proposed legislation we will provide additional authority over inspection activities while keeping Federal personnel and funds to a minimum.

The additional controls which the Department is proposing include:

Opportunity to monitor officially inspected U.S. grain in foreign ports.

Authority to require official inspection agencies to meet certain criteria to qualify for designation.

Authority to temporarily suspend the designation of an official inspection agency for specified causes and to perform original

inspections on a temporary basis if such inspections are not otherwise available from qualified official inspection agencies. Our proposal also provides for revocation of the designation of an official inspection agency for such causes after opportunity for hearing.

Triennial designation of official inspection agencies.

Summary revocation of a license whenever the licensee has been convicted of a violation of the Act or any offense under Title 18, United States Code with respect to performance of official duties under the Act.

Authority for the Department to assess, for cause, civil penalties up to \$50,000 against an applicant for inspection.

Broadening the authority of the Department to deny official inspection service to an applicant for inspection so as to authorize such denial for commission of any violation of Section 13 of the Act or conviction of any violation of other Federal law involving the handling or official inspection of grain.

Elimination of conflicts of interest by official inspection agencies. (No official inspection agency or its personnel or stockholders may have a financial interest in any business merchandising or handling grain or using the official inspection service.)

Requirement of records, and access to records and premises, of applicants for inspection.

Increasing penalties for certain violations of the Act from misdemeanors to felonies (improper influence or forcible assaults on official inspection personnel; acceptance of money by such personnel for neglect or improper performance of duty).

Requirement of installation of monitoring (surveillance) equipment in grain elevators, as condition of eligibility for official inspection.

The above authorities plus additional supervisory personnel should overcome the shortcomings of the existing system without eliminating qualified private agencies from participating in official inspections.

We recognize that there are inherent conflicts of interest between the industry and non-State official inspection agencies. The pressures that can be brought to bear by the grain industry on the licensees employed by such agencies can reduce the objectivity of the licensees when performing official inspections. Failure to yield to such pressures could affect the salaries or the employment of the licensees. We believe that these inherent conflicts of interest will be eliminated by the proposal which precludes an agency from being designated if the agency or its members, officers, employees, or stockholders are employed by or have any direct or indirect interest in any grain business or the use of the official inspection service. Under this proposal, many chambers of commerce, boards of trade, and grain exchanges would not qualify for designation because of such affiliations. Eliminating such inherent conflicts of interest will play a major role in restoring integrity to our national grain inspection system.

Another important facet to our proposal is the authority for the Department to perform original inspections on an interim basis during suspension or revocation proceedings against an official inspection agency, where no other qualified agency or person is willing or able or can acquire adequate facilities and personnel to provide service.

The Department has never had authority under the U.S. Grain Standards Act to conduct original inspections, except on U.S. grain at Canadian ports. The new authority would not be used except under the limited circumstances prescribed in the bill. However, we believe that such authority is needed to assure continuity of service under the tightened inspection standards which are proposed.

We strongly feel that to the extent practicable and feasible our grain inspection system should continue to be in the hands of designated official inspection agencies. However, there are situations as covered by the proposal in which authority for the performance of original inspection by USDA is needed. Given the parameters which we have proposed in our legislation, we believe we can provide a system of national grain inspection that will have the confidence not only of domestic buyers but foreign buyers as well, and one that will keep U.S. exports of grain competitive in the world market.

There have been a number of proposals introduced for the purposes of improving the grain inspection system. H.R. 7442 and H.R. 8347 would provide for a total Federal grain inspection system. H.R. 8764 would provide for a combination Federal-State system, with all export grain inspections conducted by Federal employees and authority for the Secretary to provide for all original inspections of other grain to be conducted by the States. I might say that each of these proposals resemble in some degree the various alternatives considered by the Department. While we are sympathetic to the objections of the various proposals which have been presented, we do not feel they are in the long-run interest of consumers or the grain industry in general.

To provide for a total Federal grain inspection system, such as is proposed by H.R. 7442 and H.R. 8347, would cost about \$60.8 million and involve the employment of a Federal staff approximating 3,200 persons. In addition, this raises the question of the possibility of a Federal obligation which Congress or the courts may feel is owed to the private agencies as a result of such legislation. This proposal would run counter to the Administration's desires to retain both State and private sector responsibility in our national grain inspection system and to keep program costs and Federal employee man-years to a minimum without jeopardizing the integrity of our grain inspection system.

Many States now have strong inspection systems and provide adequate service at both export and interior points. Many States would resent the implication that the service they now provide does not comply with present requirements. Also, the elimination of the private agencies, as I have previously stated, is not the will of the Administration. We continue to stress the importance of minimal Federal involvement in programs where designated State and private agencies can fulfill the requirements. The estimated annual cost of the Federal/State system contemplated by H.R. 8764 is \$40 million and would involve the employment of approximately 2,626 persons of which 1,426 would be Federal and 1,200 State. These figures are estimates for costs of inspection service. The intent of H.R. 8764 and the scope of the Department's responsibility under the bill are unclear with respect to the regulation of weighing, and supervision of the weighing of grain and control of scales. Also, we cannot predict how many official inspec-

tion offices and laboratory facilities would have to be relocated to comply with the bill because we do not now have information as to the ownership or operation of the buildings in which such offices and facilities are located. Costs of enforcing the registration provisions would partly depend on the number of persons identified as subject to such provisions. Therefore, we are unable at this time to determine funding and man-year requirements for these aspects of the bill. However, it is apparent that these provisions would greatly increase the workload of the Department.

Our proposal (H.R. 9467) is directed at correcting the inadequacies which now exist in our national grain inspection system at the least possible cost to the U.S. taxpayer and minimal increase in Federal employment. Although some additional Federal supervision will be needed, the major factors contributing to the irregularities in the existing system center on the inherent conflicts of interests and lack of certain authorities. We believe that under our proposal the problem can be resolved and that we can still retain the basic framework of the public/private system.

Since the investigations began on irregularities in the grain inspection system, a number of irregularities have come to light in the weighing of grain. At the time the Department was considering what changes were necessary under the U.S. Grain Standards Act, we were concerned about being able to properly fulfill the responsibility that already existed under that Act. The U.S. Grain Standards Act confers no authority for the determination and certification of the weight of bulk grain. While this Department has authority to license weighers of grain under the United States Warehouse Act, that authority applies only to weighers for warehouses voluntarily obtaining licenses under that Act. The General Accounting Office, on behalf of the Senate Agriculture and Forestry Committee, is presently conducting a thorough study into weighing. I understand that they are scheduled to report their findings and recommendations to the Congress by February 1976. We're also considering this matter but it's too premature to make any recommendations at this time. The outcome of the GAO study, as well as the Department's findings and recommendations, should provide the basis for decisions and recommendations in this area.

Included in the Department's proposed legislation are a number of provisions which are designed to reduce violations of the Act committed by applicants for official inspection services. The proposal broadens the basis for administrative denial of official inspection services and authorizes the administrative assessment and collection of a civil penalty up to \$50,000 as an alternative to, or in addition to, the denial of service or the criminal penalties of the Act. Increasing the penalties from a misdemeanor to a felony level for such violations as improperly influencing official inspection personnel should have a deterrent effect on commission of such crimes and reduce the attempts by applicants to influence the improper inspection of grain.

The proposal to monitor officially inspected U.S. grain in foreign ports should not only provide data for improving the official standards and grading procedures but should also provide data on handling of grain shipped from the United States. If incorrect grading or

improper handling is evident when the grain is unloaded at destination, investigations will be instituted to determine the reasons for such grading or handling. Violations by the industry should also be reduced through the installation of specified sampling and monitoring (surveillance) equipment in the grain elevators so official inspection personnel can more adequately supervise the grain inspection and handling events which occur during loading. Also, the proposed authority for the Department to have access to the premises and to records of purchases, sales, transportation, storage, treating, cleaning, blending, etc., should facilitate enforcement of the Act.

The bill also imposes more stringent requirements on official inspection agencies with respect to other aspects of their inspection responsibilities; such as, training, staffing, supervision, and reporting requirements. Failure to comply with such requirements, violations of the Act or conviction of violation under other relevant Federal laws could result in suspension or revocation of the designations of official inspection agencies.

Insofar as our present authority permits, the Department has taken action to correct deficiencies in the inspection system. These include:

- Reorganization of the Grain Division of the Agricultural Marketing Service in 1974, and installation of new leadership.

- Initiation of a training and recruiting program to hire and upgrade present personnel.

- Shifting of personnel to meet changing workloads on a continuing basis.

- Triennially examining licensees who are employed by official inspection agencies.

- Establishing more precise criteria for licensing personnel for performance of stowage examinations. Written examinations have been required for such licensing actions since September 30, 1974.

- Issuance of a stowage examination instruction to provide uniform criteria for the performance of stowage examinations.

- Elimination of non-compartmental grain probes (which gives less representative samples than compartmental probes) as a means of obtaining official samples.

- Prescribing revised tours of duty for Federal employees to provide more effective supervision.

- Maintaining of file samples which can be used as basis for reinspections, appeal inspections, and for supervision purposes.

- Implementation of a system for monitoring inspection accuracy, using statistical tolerance and computer analysis to identify grading trends or departure from norms, and to alert supervision to a need for corrective action.

- Temporarily suspending licensees indicted on charges of accepting bribes or similar offenses and following later with proceedings to determine whether revocation of their licenses is warranted under the Act.

In addition, we amended the regulations under the U.S. Grain Standards Act. The amended regulations, which became effective September 4, 1975, provide in part for:

- The use of approved mechanical sampling equipment in export elevators.

Opportunity for increased supervision of shiplot grain during loading. Previous regulations did not provide for stopping of the loading of a vessel for supervision purposes.

Applications for designation as an official inspection agency to show the names of the owners or officers, and to include a copy of the articles of incorporation if the agency is a corporation. This will facilitate determining whether there are conflicts of interest prohibited by the present Act. We will refuse designation where such conflicts are found to exist.

Withholding inspection service for conditions that are hazardous to the health or safety of official inspection personnel.

The bill would require the Secretary to collect fees to cover the estimated cost to the Department incident to the performance of official inspection functions by Department personnel (or contract licensees) as provided in the bill, including administrative and supervisory costs "directly related" to such inspection of grain. The bill also would require the official inspection agencies to pay in quarterly installments, fees, based on their volume of operations, to cover the Federal administrative and supervisory costs "directly related" to the official inspection of grain by such agencies and the designation and supervision of such agencies (except for costs under sections 7(f)(4), 9, 10, and 14 of the Act relating to suspension or revocation of designations or licenses, denial of inspection service, or criminal actions). All these fees would be deposited in a fund to be available without fiscal year limitation for expenses of the Department incident to providing official inspection services, including such supervisory and administrative costs.

The "directly related" costs would be those involved in operations of Department personnel below the level of the office of the Chief of the Grain Branch. The bill would authorize, on a recurrent basis, appropriations for all Federal administrative and supervisory costs not covered by such fees, including among others, costs involved in monitoring activities in foreign ports with respect to grain officially inspected under the Act, improvement of the official standards, inspection procedures and equipment, investigation of grain handling under section 4 of the Act, and development of regulations.

The bill would further authorize an appropriation to provide funds for the Federal administrative and supervisory costs that would normally be met by fees during the initial period of approximately 6 months while it is anticipated that the fees provided for in the Act would accumulate to a sufficient level to cover such expenses on a current basis. It is proposed that the initial capitalization of a fund for this purpose be \$4,250,000. These funds would be considered an advance and repayable with interest over a period of time as determined by the Secretary and the Secretary of the Treasury.

An estimated total of 444 Federal man-years or an estimated addition of 175 man-years over the current 269 man-years would be required for the proposed revised public/private grain inspection system. Staffing of the State and private agencies is expected to be essentially unchanged from the current system. The annual cost of the entire public/private inspection system is estimated at \$39,277,000 with the Federal program estimated at \$9,277,000. Of the latter

amount, \$7,857,000 would be recovered from fees and \$1,420,000 would be appropriated monies as opposed to the current appropriated figure of \$3,126,000.

Because of the recent revelations of the irregularities in our national grain inspection system, both foreign and domestic customers are apprehensive about the quality and sanitation of their purchases. There is sufficient decline in the credibility of our grain inspection system and the certificates of grade that are issued to warrant significant changes in the present system. We believe the proposals we have outlined here today will provide those changes and will provide the vehicle to restore confidence in our national grain inspection system.

Mr. Chairman, this concludes my statement. I and my colleagues will be glad to respond to any questions the Committee may have.

COMMITTEE MARKUP

Upon conclusion of the hearings, the Committee gave extensive consideration to the grain inspection legislation. Business meetings of the Committee were held October 31, November 4, 11, 13, 18, December 2 and 10, 1975, and continued in the second session of the 94th Congress on February 24, 25, March 2, 3, 4, 9, 10, and 17. At the beginning of the markup, the Committee had before it, in addition to the several bills providing long-range reform, a bill, S.J. Res. 88, which had passed the Senate providing temporary stopgap authority for the Secretary.

The Committee decided to markup a bill that would provide permanent grain inspection authority with the view that after it had completed its action, if a temporary bill providing interim authority were deemed advisable, it could be reported out consistent with its decision on permanent legislation. It decided on using a Committee print as a working document and that, after conclusion of consideration, a clean bill would be introduced embodying the decisions reached.

The Committee print laid before the Committee included a broad range of provisions.

The Committee Print among other things—

1. Provided for inspection at export port locations by the USDA or a State under a cooperative agreement with the USDA.

2. Provided that official inspection at other locations would be made only by State agencies and persons designated by the USDA and specified the criteria required for cooperative agreements and designations, including in the case of a designation, that there must be no conflict of interest prohibited by section 11.

3. Authorized the Secretary to provide official inspection on an interim basis at any location when it is not available from an official inspection agency reasonably nearby.

4. Required the Secretary to collect inspection fees to cover the costs of USDA official inspection including supervisory and administrative costs.

5. Provided that no official inspection agency or any member, officer, employee or stockholder shall have such a conflict of interest in any other business as to jeopardize the integrity of its inspection service.

6. Provided three options on weighing:

Option 1—for the Secretary to conduct a study concerning weighing procedures and report the results to the House and Senate Agriculture Committees together with legislative recommendations.

Option 2—for the Secretary to prescribe procedures for weighing and for certification of weights, to supervise the weighing and to carry out inspection and testing of scales. These activities could be carried out through cooperative agreements with States.

Option 3—to make it a criminal offense to falsify the weight of grain.

7. Provided that a person engaged in the business of buying grain for sale or in the business of handling, weighing, or transporting of grain must register with the Secretary. No person could engage in such business unless he had registered with the Secretary. The Secretary could suspend or revoke a certification of registration if after opportunity for a hearing, he had determined the person had violated the Act or had been convicted of a crime in the handling or inspection of grain.

8. Broadened the basis for administrative denial of official inspection services and authorized a civil penalty of up to \$50,000 as an alternative or in addition to criminal penalties and denial of official inspection.

9. Strengthened the criminal provisions of the Act.

At the outset, the Committee Print was amended by a vote of 22-10 upon motion by Mr. Bergland to provide for inspection at port locations by USDA personnel only. There followed considerable discussion concerning the provision making it a misdemeanor for present or former USDA officials and official inspection personnel to disclose information obtained under the Act except under authority of the Secretary, court order, law enforcement proceedings or request from Committees of Congress. This provision enlarged the category of persons covered by the provision now in existing law but also added to the exception by including law enforcement proceedings and congressional requests. The Committee agreed also to allow a person to divulge information which he reasonably believes involves conduct prohibited by the Act or the Criminal Code. At that point it was decided to hold over further consideration of the legislation until the next session of the Congress.

Upon reconvening in January, the Committee turned down by a vote of 3 to 16 a motion by Mr. Poage to remove the USDA from involvement in the setting of standards or providing inspection of export grain.

The Chairman then redirected the Committee's attention to the central issue—namely, inspection at port elevators. He stated that a number of Members had asked for reconsideration of this issue and proposed an amendment that would provide for Federal inspection at export port locations which could be conducted either by USDA personnel or by State agency personnel through a delegation of authority from the Secretary. It was pointed out that there were several areas where qualified State agencies were available and that an opportunity should be provided to allow use to be made of these agencies

so long as it was left to the discretion of the Secretary and any delegation could be revoked at any time, upon notice, without a hearing. These agencies would be operating under the supervision of the Secretary, and inspection would continue to be his responsibility. The proposal was amended to stress that in the event of a delegation of authority, the State agencies would remain under Federal oversight and that official inspection would continue to be the Secretary's responsibility. The Chairman's proposal, as amended, was adopted by a vote of 22-19. A further amendment to allow grain exchanges and private agencies to perform inspections at ports lost as did an amendment that would have deleted the language giving the Secretary authority to revoke a delegation of authority to a State without the necessity to show cause and without opportunity for a hearing.

The next issue considered related to regulation of weighing. Mr. Fithian introduced an amendment to provide that at port elevators the Federal Government only would supervise the weighing process—elsewhere the Secretary had discretion to require Federal supervision of weighing. The actual weighing and certification of weights of grain, at the election of the Secretary could be required to be performed by USDA personnel or designated State or private agencies. The proposal was amended by a vote of 32-8 to authorize the Federal Government to delegate supervision of weighing functions at port elevators to State agencies, although overall responsibility for this function would continue to reside with the Secretary.

The Fithian amendment was further amended to strike out any authority for regulating weighing at interior points and, instead, to require a study of all functions relating to weighing and for the Secretary to report back to Congress within a year with recommendations for legislation that he deemed desirable. The study would include both interior and export locations. In the discussion it was indicated that regulation of weighing at interior elevators might be too great a burden for the USDA to assume at this time, given the added responsibilities being placed on the Department by other provisions of the Act. Further, it was felt that since the Department would be charged with administering any program for interior elevators, it should first have an opportunity to provide recommendations as to what should be done. The Fithian amendment, as amended, was then adopted.

The weighing provision was later refined by the Committee to require all grain shipped to or from export elevators to be weighed, except in certain unusual cases such as those situations at a Great Lakes port where grain is received for use in a local brewery or other nearby processing facility owned by the owner of the warehouse facility. Also it was changed to take account of special problems involved in U.S. grain transhipped through Canadian ports.

One of the other provisions of the Fithian amendment gave the Secretary authority to require recordkeeping of firms with respect to grain which has been weighed and to permit USDA personnel access to these records. It was the intent of the Committee that, through these provisions, the USDA could assure itself there was a proper reconciliation of the amount of grain received at an elevator and the grain that was shipped therefrom.

Conflict of interest provisions were then considered by the Committee. Mrs. Heckler moved to provide a strict conflict of interest rule that would cover official inspection agencies and State agencies delegated authority and rule out any such agency if that agency or any of its officials or employees had any financial interest in a business involving the transportation, storage, merchandising or handling of grain, and vice versa. This was amended on motion of Mr. Bergland to allow a governmental agency, board of trade, chamber of commerce or grain exchange to serve as an official inspection agency if it were determined that any conflict of interest that may exist would not impair the effective and objective operation of the system.

Another amendment adopted provided for the Secretary to specify the State officials to which the conflict of interest provisions apply so that it would not cover those officials whose duties were entirely unrelated to grain inspection, such as the warden of the State prison. It was also decided that the conflict of interest provisions would apply to agencies performing weighing functions such as State agencies under a delegation of authority and any designated agencies.

Concern was expressed that the provision should not preclude a producer-employee of a grain inspection firm from hauling his own grain to market or handling his own grain. Accordingly, the provision was changed to apply to conflicts with a business involving the commercial transportation or commercial handling of grain.

An amendment lost that would have substituted for the Heckler amendment a general authorization to the Secretary to prescribe rules he deemed appropriate relating to conflicts of interest. The Heckler amendment, as amended, was then adopted by a vote of 17-4.

Another issue discussed in depth by the Committee related to financing of the inspection and weighing system. An amendment was proposed by the Chairman which provided guidelines as to what part of the costs should be borne by user fees and what part by appropriated funds. In brief, the amendment provided that user fees would cover the costs incurred by the Department in the field relating to official inspection (where inspection is conducted by designated or delegated agencies) but that they should not be more than 75 percent of the total expenses incurred by the Department in connection with these functions. A comparable guideline was established for other regulated activities.

The Committee print provided that the fees would be put in a revolving fund and available for future use without the need to go through the appropriation process. The amendment provided instead that they would be deposited in miscellaneous receipts to the Treasury—thus the Department would be required to obtain appropriations on an annual basis to cover its total expenses under the Act.

Another change in the Committee print provided that, rather than requiring the official inspection agencies to pay fees in advance on a quarterly basis, they would be paid after the fees had been collected from the users, thus lessening the burden on the designated and delegated agencies. It was considered in debate difficult to estimate the ultimate cost of such an inspection system to the Department since that

depends on the extent to which the Secretary would be conducting original inspection and supervision of weighing through USDA personnel and the extent to which they would be conducted through a delegation of authority. The amendment envisioned a uniform fee schedule, insofar as practicable, recognizing that it would be impossible to insure uniformity everywhere in the United States. Instead of setting a fixed amount to cover USDA administrative, supervisory, and direct inspection costs, the amendment set a maximum limit, so that with a short crop and reduced exports it would be possible to avoid too heavy a burden on users. With the requirement for annual appropriations, there would be an opportunity for the Congress each year to provide a review of the fee schedule. The amendment was adopted by a voice vote.

In other changes to the Committee print, the Committee dropped the provision for registration of grain merchandising and warehouse firms and the provision for a study of contamination of grain. It adopted an amendment proposed by Mr. Bedell requiring a study of grain standards with special focus on the needs of foreign and domestic buyers and directing the Secretary to make changes in the standards to that end.

The Committee also adopted a provision on motion by Mr. Hightower to require an annual summary of foreign complaints regarding grain shipments to be submitted to the Congress. At the markup session the USDA representative announced actions taken to strengthen the entire process of handling complaints so that they would be considered and followed up within the Department.

Upon motion by Mr. Thone, the Committee adopted an amendment to provide that the provisions of the Criminal Code dealing with bribery, assault and intimidation would apply to weighing personnel of delegated and designated agencies in the same manner as they apply to U.S. Government personnel. The criminal provisions of the Act were strengthened by increasing the penalties for offenses not covered by the general Criminal Code (offenses other than bribery, assault, intimidation, etc.) to up to one year imprisonment or a \$10,000 fine, or both, and even higher penalties for subsequent offenses. In discussion, the USDA representative stated that the presence of these penalty provisions could have a deterrent value but that the major responsibility rests with the Department, and that after a first offense it should be made doubly sure that there is careful scrutiny of the individual before he was put back into the system.

The Chairman offered an amendment to strike from the bill several provisions that provide for maintaining monitoring personnel at foreign ports. They were deleted to avoid the expectation that the Secretary would be under an obligation to maintain permanent monitoring personnel at all international ports where U.S. grain is received. It was affirmed that if there is substantial complaint received from a foreign port concerning the quality of U.S. grain, the Secretary already has residual authority to provide monitoring personnel abroad is the need should arise. It was, therefore, decided that no additional authority was needed in this area. However, the Committee did retain in the Commit-

tee print language which authorized the Secretary to obtain appropriations for monitoring activities abroad.

The Committee amended the provision in the Committee print so that the Department could hire, without regard to Civil Service requirements, not only personnel to perform official inspection who are currently licensed to perform such functions but also personnel to perform weighing functions provided for under the Act who are currently engaged in similar type functions. The Committee expressed concern that equity be shown in the employment of persons working for private and public agencies who are displaced because of the regulatory provisions of the Act. If qualified, the Committee expects that these loyal and faithful people would be considered for positions of at least comparable responsibility and rank and that, in setting their pay within the appropriate grade, cognizance be given to the rank, benefits, and longevity that the employees had accrued previously.

During its markup sessions, the Committee unanimously adopted an amendment proposed by Mr. Bedell providing for inspection upon request of soybean, cottonseed and sunflower meal shipped for export to establish its protein, fat, fiber and moisture content. The amendment was later withdrawn at the request of its sponsor and with approval of the Committee upon receipt of a letter from the Department of Agriculture assuring the Committee that it was already providing his service under the Agricultural Marketing Act of 1946. The letter stated as follows:

U.S. DEPARTMENT OF AGRICULTURE,
AGRICULTURAL MARKETING SERVICE,
Washington, D.C., March 2, 1976.

HON. BERKLEY BEDELL,
House of Representatives,
Washington, D.C.

DEAR MR. BEDELL: The purpose of this letter is to confirm statements made to you on February 26, 1976, by David Galliard, Director of our Grain Division, with respect to the inspection for quality of soybean meal exported from the United States.

The Department of Agriculture is authorized under the Agricultural Marketing Act of 1946 to inspect for quality agricultural products, including soybean meal, exported from the United States. The inspections are permissive and not mandatory.

The Department has inspected and plans to continue to inspect for quality, upon request of applicants for inspection, soybean meal being exported from the United States. The inspections for quality have been and will continue to be available at all ports in the United States.

Sincerely,

DONALD E. WILKINSON,
Administrator.

The Committee then agreed to make miscellaneous changes in the bill and to require a report by the Secretary after a year as to his progress in implementing the Act which is to become fully effective in a two-year period.

At the conclusion of its deliberations, a clean bill, H.R. 12572, was introduced to reflect the various decisions reached by the Committee.

In the presence of a quorum and by a recorded vote of 32-5, the Committee ordered the bill reported with certain clerical amendments.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4), Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 12572 will have no inflationary impact on the national economy. To the contrary, H.R. 12572 should instill greater confidence in the integrity of the U.S. weighing and inspection system thereby contributing to maintaining high demand abroad for U.S. produced grain. Unless our customers can look to us as a reliable supplier, the United States cannot make these sales which are such a vital part of farmers' income and so important to our international balance of payments. In sum, the impact of H.R. 12572 should be counter-inflationary.

OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 12572, as amended.

The Committee, however, undertook extensive oversight of the matters addressed by H.R. 12572 through its hearings and markup sessions and also through the investigation undertaken by the General Accounting Office at the joint request of Hon. Hubert H. Humphrey and Hon. Thomas S. Foley. The resultant report of the GAO was of great assistance to the Committee in its deliberations and important in the formulation of views of many Members of the Committee.

CURRENT AND FIVE SUBSEQUENT FISCAL YEAR COST ESTIMATE

Pursuant to Clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee submits the following cost estimates regarding costs to be incurred by the Federal Government during the current and the five subsequent fiscal years as the result of the enactment of this legislation.

ESTIMATED COSTS OF H.R. 12572
[In thousands of dollars]

	Transition quarter	Fiscal year—				
		1977	1978	1979	1980	1981
Total Federal costs (\$46,399,000).....	\$12, 124	\$50, 551	\$53, 749	\$56, 319	\$59, 484	\$62, 467
Total of other costs (State and private \$29,118,000).....	7, 609	31, 724	33, 730	35, 343	37, 329	39, 201
Total cost (\$75,517,000).....	19, 733	82, 275	87, 479	91, 662	96, 813	101, 668
Net Federal cost after deducting user fees (\$5,314,000).....	1, 399	5, 790	6, 156	6, 450	6, 812	7, 154

These figures were derived from the following cost breakdown of inspection and weighing function.

Inspection:	Thousands
(1) Existing supervisory and administrative costs ¹ -----	\$5,708
(2) Increased USDA supervision-----	4,900
(3) Interim original inspection authority-----	545
(4) Standards study and miscellaneous functions (sec. 19)-----	1,282
(5) Conflict of interest investigation-----	33
(6) Designation-----	49
(7) Federal inspection export points-----	20,000
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Total cost inspection functions requiring annual appropriations-----	32,517
Total cost State inspection-----	9,100
Total cost private inspection-----	15,000
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Total cost of inspection service-----	56,617
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Net Federal cost of inspection (items (1), (2), (3), (5), (6) × 25 percent + item (4))-----	4,091
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Weighing:	
(1) Cost of USDA export weighing supervision-----	9,835
(2) Cost of USDA weighing supervision-----	3,765
(3) Cost of USDA weighing study-----	282
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Total cost of weighing function requiring annual appropriation-----	13,882
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Total cost of State weighing supervision-----	5,018
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Total cost of weighing function----- ²	18,900
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Net Federal cost of weighing (item (2) × 25 percent + item (3))-----	1,223
Net Federal cost-----	5,314
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Total cost of inspection and weighing system-----	75,517

¹Item (1) reflects the supervisory and administrative costs incurred in 1974 under the present system. The total cost of the grain inspection that year, including user fees, was \$35,708,000 or approximately \$0.033 per bushel of grain inspected.

²This cost approximates the cost of the class I weighing supervision mandated under the USDA's affirmative action program.

These figures were inflated by the following factors to derive the totals in the cost estimate table:

T.Q.-----	.2613
Fiscal year:	
1977-----	1.0895
1978-----	1.1584
1979-----	1.2138
1980-----	1.2820
1981-----	1.3463

Estimate Comparison—

The House Agriculture Committee cost estimate of H.R. 12572 overall, including the amount offset by user fees is \$75,517,000 which is \$6,800,000 higher than the Congressional Budget estimate and \$1,765,000 lower than the USDA estimate.

The variance in these cost estimates reflects different judgments as to the number of state and private inspection agencies, both export and inland, whose designations will be terminated with the advent of federalization as well as the volume of grain inspected by each of these agencies.

According to the U.S. Department of Agriculture, H.R. 12572 would cost an estimated \$77.2 million and 4,541 man-years. It arrived at this total from the following breakdown:

With respect to the grain inspection functions, the USDA believes the total cost would be \$59.9 million and 3,605 man-years. This would include \$35.8 million (\$9.2 million by direct appropriation and \$26.6 million would be derived from fees) and 1,288 man-years for total Federal costs, \$9.1 million and 1,144 man-years for State costs, and \$15.0 million and 1,173 man-years for private costs.

The USDA is of the view that the weighing operations under the bill would be \$17.3 million and 936 man-years. This estimate is based on State participation at the same rate as at present and the assumption that those States now supervising weighing would be delegated the responsibilities of the Secretary under the new law. Of this amount, the Federal portion would be \$12.6 million (\$3.2 million by direct appropriation and \$9.4 million derived from fees) and 683 man-years and the States' portion of \$4.7 million and 253 man-years.

No estimates have been made by USDA for the aspect of the program that encompasses the designation of weighers and scale testers. Expenses for such functions could be absorbed in the above estimates as such functions could be done by Federal and State weight supervisors in the normal course of their other duties. Also, no costs have been estimated for the weight study required at port elevators and at other than port elevators. It is understood that the House Agriculture Committee would furnish guidance on the scope and extent of that study.

BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(1)(3) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison prepared by the Director of the Congressional Budget Office under clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 23, 1976.

HON. THOMAS S. FOLEY,
Chairman, Committee on Agriculture, U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 12572, United States Grain Inspection Act of 1976.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

1. Bill No.: H.R. 12572.
2. Bill title: United States Grain Inspection Act of 1976.
3. Purpose of bill:

General.—The bill amends the United States Grain Standards Act and improves the grain inspection and weighing system. The bill is particularly concerned with the grain export system. This is an authorization bill which requires subsequent appropriation action.

Specific.—Section 4(e) provides for inspection of grain at export port locations by the USDA or a state under a cooperative agreement with the USDA.

Section 4(i) requires the Secretary of Agriculture to collect inspection fees to cover the costs of USDA official inspection of grain including 75 percent of the total supervisory and administrative costs. Such fees shall be deposited in the U.S. Treasury.

Section 7A(a) provides that the Secretary of Agriculture shall be responsible for the supervision of the weighing of all grain received or shipped from export port elevators in the United States by authorized employees of the Department of Agriculture. The Secretary may delegate authority to a state agency to perform such supervision pursuant to USDA regulations.

Section 7A(c) states that the Secretary of Agriculture may provide that the actual weighing and certification of weights and the testing of scales at an export port be performed either by authorized employees of the Department of Agriculture or by state or local agencies.

Section 7A(e) provides that the Secretary shall conduct a study concerning the supervision of weighing and certification of weights of grain and the inspection and testing of scales at both export port elevators and other facilities.

Section 7A(i) states that the Secretary may collect reasonable fees to cover the estimated costs to the USDA for the supervision of weighing, including 75 percent of the total supervisory and administrative costs. Such fees shall be deposited in the U.S. Treasury.

Section 14(a) states that any person who commits an offense prohibited by this bill shall be guilty of a misdemeanor and shall be, upon conviction, subject to imprisonment for not more than twelve months or a fine of not more than \$10,000.

Section 19 states that there are authorized to be appropriated such sums as are necessary for monitoring in foreign ports grain officially inspected under this Act; improvement of official standards for grain, improvement of inspection procedures and equipment and other activities authorized by this Act.

Section 17 states that the Secretary is authorized to conduct an investigation and make a study regarding the adequacy of the current grain standards established under the U.S. Grain Standards Act. The Secretary may seek the advice of or may employ any member of the public during this investigation. The Secretary, on the basis of the results of the study shall make such changes in the grain standards as he determines necessary and not later than one year after the enactment of this Act submit a report to the Congress setting forth the results of the study.

4. Cost Estimate:

	Fiscal year—					
	Transition quarter	1977	1978	1979	1980	1981
Sec. 4(e).....	13,204	55,054	57,089	59,820	63,181	66,350
Sec. 7A(a).....	4,795	19,995	21,194	22,203	23,450	24,627
Sec. 7A(e).....	69	213				
Sec. 17.....	69	213				
Total.....	18,137	75,475	78,283	82,023	86,631	90,977
Amount offset by user fees:						
Private agencies.....	3,927	16,374	17,410	18,242	19,267	20,234
State agencies.....	3,583	14,940	15,884	16,643	17,579	18,460
Federal agency.....	9,798	40,279	41,315	43,288	45,718	48,012
Net Federal cost.....	829	3,456	3,674	3,850	4,067	4,271

5. Basis for Estimate:

Section 4(e).—It is assumed that there will be federal inspection of grain at all export port locations except when a state agency is delegated the task by the Secretary of Agriculture. It is also assumed that there will be state or private inspection at the inland shipping locations with federal oversight. There is a total cost of \$40,608,000 for the present system of which the federal role is approximately 25 percent. With an increased federal role in the inspection system, the total cost would rise to \$55,054,000. The private and the state costs would remain about the same, but the federal cost would rise from \$10,608,000 to \$29,017,743. These would be made up mainly of a 266 man-year increase to perform such duties as international inspection, designation of state or private agencies and the federal inspection at the export locations. These costs would be almost entirely paid for by user fees and the net federal cost would be \$2,071,000.

Section 7A(a).—It is assumed that the seven state agencies that are already supervising the weighing of grain will continue to do so under the new system. The USDA agents will take over the job that is presently done by private agencies. It is further assumed that the present 25 percent supervision will be increased to 100 percent supervision under the new system. The man-year cost for state agencies is \$16,727 and it is based upon current salaries paid at these major grain export areas. Presently, there are 300 men supervising the weighing of grain at the 25 percent rate. With the new 100 percent rate, we would need an additional 588 men for weight supervision, 37 for supervisory inspection, and 64 for management and administration. This would be a total of 689 federal employees and 253 state workers for a total of 942. The cost for this would be \$19,995,000 of which \$17,978,126 would be paid by user fees and \$958,760 would be paid for by the federal government.

Section 7A(e).—It is assumed that the study concerning the supervision of weighing and certification of weights of grain and the inspection and testing of scales will have five members plus two clericals. It is also assumed that the study will have contract authority of up to \$100,000 for outside consultants. Also included are overhead, travel, printing and communications costs for a total of \$282,000.

Section 17.—It is assumed that the investigation regarding the adequacy of the current grain standards established under the U.S. Grain Standards Act will have five members plus two clericals. It is also assumed that the investigation will have contract authority up to \$100,000 for outside consultants. Also included are overhead, travel, printing and communications costs for a total of \$282,000.

6. Estimate Comparison :

The Department of Agriculture's cost estimate is \$77,136,000 for 1976. This figure has not been inflated for 1977 and beyond. The USDA estimate is approximately \$8 million higher than our estimate due to an additional cost assumption that the costs of the National Finance Center and the Technical Services Division should be included. In the CBO estimate, it is assumed that these costs are included in the 10 percent overhead charge.

7. Previous CBO Estimate: None.

8. Estimate Prepared By : Jack Garrity (225-5275)

9. Estimate Approved By :

JAMES L. BLUM,

Assistant Director for Budget Analysis.

ADMINISTRATION POSITION

The Administration's position was not received by the Committee at the time of the printing of the report.

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman) :

UNITED STATES GRAIN STANDARDS ACT

* * * * *

“SHORT TITLE

“SECTION 1. This Act may be cited as the ‘United States Grain Standards Act’.

“DECLARATION OF POLICY

“SEC. 2. 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, [and] to provide for an official inspection system for grain, and to regulate the weighing of grain in the manner hereinafter provided with the objectives that grain may be marketed in an orderly manner and that trading in grain may be facilitated.

“DEFINITIONS

“SEC. 3. When used in this Act, except where the context requires otherwise—

“(a) the term ‘Secretary’ means the Secretary of Agriculture of the United States or his delegates;

“(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, grain sorghum, soybeans, mixed grain, and any other food grains, feed grains, and oilseeds for which standards are established under section 4 of this Act;

“(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 and the certification, by official inspection personnel, of the kind, class, quality, or condition of grain, under standards provided for in this Act; or, upon request of the interested person applying for inspection, the quantity of sacks of grain, or other facts relating to grain under other criteria approved by the Secretary under this Act (the term ‘officially inspected’ shall be construed accordingly);】

“(i) *The term ‘official inspection’ means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel, of the kind, class, quality, or condition of grain, under standards provided for in this Act, or the condition of vessels and other carriers or containers for transporting or storing grain insofar as it may affect the quality or condition of such grain; or, upon request of the interested person applying for inspection, the quantity of sacks of grain, or other facts relating to grain under other criteria approved by the Secretary under this Act (the term ‘officially inspected’ shall be construed accordingly);*

【“(j) the term ‘official inspection personnel’ means 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 Act; 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;】

“(j) *The term ‘official inspection personnel’ means persons licensed or otherwise authorized by the Secretary pursuant to sec-*

tion 8 of this Act to perform all or specified functions involved in official inspection, or in supervision of official inspection;

"(k) the term 'official inspection mark' means any symbol prescribed by regulations of the Secretary to show the official determination of an official inspection;

"(l) the term 'official grade designation' means a numerical or sample grade designation, specified in the standards provided for in this Act;

["(m) the term 'official inspection agency' means the agency or person located at an inspection point designated by the Secretary for the conduct of official inspection under this Act;"]

"(m) The term 'official inspection agency' means any State or local government agency, or any person, designated by the Secretary pursuant to subsection (f) of section 7 of this Act for the conduct of official inspection (other than appeal inspection);

"(n) the terms 'official certificate' and 'official form' mean, respectively, a certificate or other form prescribed by regulations of the Secretary under this Act;

"(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, or sampling' means any manner of loading, handling, or sampling that deceives or tends to deceive official inspection personnel, as specified by regulations of the Secretary under this Act;

"(v) The term 'export port elevator' means any elevator, warehouse, or other storage or handling facility at an export port location in the United States from which grain is shipped from the United States to any place 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 of Agriculture, from which grain produced in the United States is shipped to any place outside the United States;

"(x) The term 'supervision of weighing' means 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.

"STANDARDS

"SEC. 4. (a) The Secretary is authorized to investigate the handling, grading, and transportation of grain and to fix and establish standards of kind, class, quality, and condition for corn, wheat, rye, oats, barley, flaxseed, grain sorghum, soybeans, mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and the Secretary is authorized to amend or revoke such standards whenever the necessities of the trade may require.

"(b) Before establishing, amending, or revoking any standards under this Act, the Secretary shall publish notice of the proposal 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 Act 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.

"OFFICIAL INSPECTION REQUIREMENTS FOR CERTAIN EXPORT GRAIN

"SEC. 5. Whenever standards are effective under section 4 of this Act for any grain, no person shall ship from the United States to any place outside thereof any lot of such grain that is sold, offered for sale, or consigned for sale by grade, unless such lot is 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, and unless a valid official certificate showing the official grade designation of the lot of grain is promptly furnished by the shipper, or his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided, however,* That the Secretary may waive 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.

"REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS AND PROHIBITION OF CERTAIN ACTS WITH RESPECT TO CERTAIN GRAIN

"SEC. 6. (a) Whenever standards are effective under section 4 of this Act 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 proprie-

tary 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 factor information 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.

“OFFICIAL INSPECTION AUTHORITY AND FUNDING

“SEC. 7. (a) The Secretary is authorized to cause official inspection under the standard provided for in section 4 of this Act to be made of all grain required to be officially inspected as provided in section 5 of this Act, in accordance with such regulations as he may prescribe.

“(b) The Secretary is further authorized, upon request of any interested person, and under such regulations as he 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 or with respect to United States grain in Canadian ports under standards provided for in section 4 of this Act, 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 quantity of sacks of grain, or other facts relating to grain, whenever in his judgment providing such service will effectuate any of the objectives stated in section 2 of this Act.

“(c) The regulations prescribed by the Secretary under this Act shall include provisions for reinspections and appeal inspections; cancellation of certificates superseded by reinspections and appeal inspections. The Secretary may provide by regulation that samples obtained by or for employees of the Department of Agriculture 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 (40 U.S.C. 471 et seq.).

“(d) Certificates issued and not canceled under this Act 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) The Secretary may, under such regulations as he may prescribe, charge and collect reasonable fees to cover the estimated total cost of official inspection except when the inspection is performed by employees of an official inspection agency. The fees authorized by this paragraph shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Department of Agriculture incident to the performance of appeal and Canadian port inspection services for which the fees are collected, including supervisory and administrative costs. 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 limi-

tation for the expenses of the Department of Agriculture incident to providing official inspection services.]

“(e) *The Secretary shall cause official inspection to be performed at export port locations, for all grain required or authorized to be inspected by this Act, by authorized employees of the Department of Agriculture or other persons under contract with the Department as provided in section 8. If the Secretary determines that a State agency is qualified to perform official inspection in accordance with the criteria of subsection (f) (1) (A) of this section, the Secretary may, in his discretion, delegate authority to the State agency to perform all or specified functions involved in official inspection (other than appeal inspection) at export port locations subject to such rules, regulations, instructions, and oversight as he 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 his discretion, at any time upon notice to the State agency without opportunity for a hearing. 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), as the Secretary determines will best meet the objectives of this Act.*

“(f) Not more than 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, but this subsection shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on the date of enactment of this subsection.]

“(f) (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 inspection agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection) at locations at which 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:*

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

“(ii) *will 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 Act and the regulations and instructions thereunder;*

“(iii) *will not charge official inspection fees that are discriminatory or unreasonable;*

“(iv) *and any related entities do not have a conflict of interest prohibited by section 11 of this Act;*

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

“(vi) *will comply with all provisions of this Act and the regulations and instructions thereunder;*

“(vii) meets other criteria established in regulations issued under this Act relating to official inspection agencies or the performance of official inspection; and

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

“(2) Not more than one official inspection agency for carrying out the provisions of this Act shall be operative at one time for any geographic area as determined by the Secretary to effectuate the objectives stated in section 2 of this Act, but this subsection shall not be applicable to prevent any inspection agency from operating in any area in which it was operative on August 15, 1968. No State or local governmental agency or person shall provide any official inspection for purposes of this Act 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 8(a).

“(g) (1) Designations of official inspection 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 subsections (e) and (f).

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

“(3) The Secretary may revoke a designation of an official inspection agency whenever, after opportunity for hearing is afforded to 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 Act for the performance of official inspection functions, or otherwise has not complied with any provision of this Act or any regulation prescribed or instruction issued to such agency under this Act, 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 inspection 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 Act. The Secretary shall afford any such agency an opportunity for a hearing within thirty days after temporarily suspending such designation.

“(h) If the Secretary determines that official inspection by an official inspection agency designated under subsection (f) 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 2 of this Act, and that no official inspection agency within reasonable proximity to such

location is willing to provide and 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 Department, and other persons licensed by the Secretary to perform official inspection functions, as provided in section 8 of this Act, until such time as the service can be provided on a regular basis by an official inspection agency.

“(i) (1) The Secretary shall, under such regulations as he may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Department of Agriculture incident to the performance of official inspection, except when the inspection is performed by an official inspection agency or a State agency 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 Department of Agriculture incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including 75 per centum of the estimated total supervisory and administrative 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 in miscellaneous receipts of the United States Treasury.

“(2) Each designated official inspection agency and each State agency to which authority has been delegated under subsection (e) 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 Department relating to direct supervision of official inspection agency personnel, and direct supervision by Department personnel (outside of the Washington office) of its field office personnel. Such fees shall not exceed 75 per centum of the estimated total Federal costs related to the official inspection of grain by such agencies, except costs incurred under paragraph (3) of subsection (g) and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Secretary and shall be deposited in miscellaneous receipts of the United States Treasury. 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 Department because of such termination.

“WEIGHING

“SEC. 7A. Notwithstanding any other provision of law—

“(a) Except as the Secretary may otherwise provide in emergency or other circumstances which would not impair the objectives of this Act, all grain received at or shipped from export port elevators at export port locations in the United States shall be weighed. The Secretary shall cause supervision of the weighing of all such grain to be performed by authorized employees of the Department of Agriculture. If the Secretary determines, in accordance with the criteria of subsection (c) of this section, that a State agency is qualified to perform

supervision of weighing, the Secretary may, in his discretion, delegate authority to the State agency to perform such supervision at export port locations subject to such rules, regulations, instructions, and oversight as he may prescribe, and any such supervision of weighing shall continue to be the direct responsibility of the Secretary. Any such delegation may be revoked by the Secretary, at his discretion, at any time upon notice to the State agency without opportunity for a hearing. The Secretary is authorized to implement an agreement entered into with the Government of Canada to provide for United States supervision of weighing of United States grain received at or shipped from export port elevators at Canadian ports and the requirements of this subsection shall apply to United States grain so received and shipped after the entering into of such an agreement.

“(b) No weighing supervision shall be provided for the purposes of this Act at any export port elevator until such time as the operator of the elevator has demonstrated to the satisfaction of the Secretary that he (1) has and will maintain, in good order, suitable grain-handling equipment and accurate scales for all weighing of grain at the elevator, and will cause such scales to be tested properly by competent agencies at suitable intervals, in accordance with the regulations of the Secretary; (2) will employ only competent persons with a reputation for honesty and integrity to operate the scales and to handle grain in connection with weighing of the grain, in accordance with this Act; (3) when weighing is to be done by employees of the elevator, will require its employees 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 elevator is entirely removed from such means of conveyance and delivered to the scale without avoidable waste or loss, and each lot of grain weighed at the elevator for shipment from the elevator 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 elevator pursuant to this Act, and (5) will comply with all other requirements of this Act and the regulations hereunder.

“(c) The Secretary may provide that the actual weighing and certification of weights and the inspection and testing of scales (or any one or more of such functions) at any location described in subsection (a) shall be performed either by authorized employees of the Department of Agriculture or by State or local agencies or other persons designated by the Secretary if he determines that it will effectuate the objectives of this Act. In such event, the Secretary may designate a State or local agency or person to perform any such functions if the agency or person shows to the satisfaction of the Secretary that (1) it has adequate facilities and qualified personnel for the performance of such functions, (2) will conduct such training and provide such supervision of its personnel as are necessary to assure that they will provide the service in accordance with this Act and the regulations and instructions thereunder, (3) will not charge fees that are discriminatory or unreasonable, (4) does not

have a conflict of interest prohibited by section 11 of this Act, (5) will maintain complete and accurate records of its organization, staffing, and operations and such other records as the Secretary may require by regulation, (6) will comply with all provisions of the Act and the regulations and instructions thereunder, and (7) meets other criteria established in regulations issued under this Act relating to the performance of such functions. Designations made pursuant to this subsection shall be subject to the same provisions as designations for official inspection agencies under section 7(g).

“(d) The Secretary is authorized (1) to investigate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce; (2) to require by regulation the maintenance of complete and accurate records of the weighing of such grain for such period of time as the Secretary determines is necessary for the effective administration and enforcement of this Act; and (3) to prescribe by regulation the standards, procedures, and controls for accurate weighing and certification of weights of grain including safeguards of equipment, and the calibration and maintenance thereof, at locations specified in subsection (a) of this section.

“(e) The Secretary shall conduct a study concerning the supervision of weighing, the weighing and certification of weights of grain, and the inspection and testing of scales used in the weighing of grain at both export port elevators and other than export port elevators. The Secretary shall report the results of the study to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry not later than twelve months after the effective date of this Act, together with any recommendations for legislation that he determines necessary for strengthening the adequacy and reliability of the system.

“(f) No State or local governmental agency or person shall weigh or state in any document the weight of grain determined at a location where weights are required to be supervised or the weighing or inspection and testing of scales is required to be performed as provided for in this section except in accordance with the procedures prescribed pursuant to this section. No person shall use any scales which have been disapproved by the Secretary or a State or local government agency or person designated by the Secretary.

“(g) 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.).

“(h) 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.

“(i) (1) The Secretary shall, under such regulations as he may prescribe, charge and collect reasonable fees to cover the estimated costs to the Department of Agriculture 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 Department of Agriculture incident to performance of its functions

related to weighing, including 75 per centum of the estimated total supervisory and administrative costs related to such services. Such fees shall be deposited in miscellaneous receipts of the United States Treasury.

"(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 Department relating to direct supervision of the agency personnel and direct supervision by Department personnel (outside of the Washington office) of its field office personnel incurred as a result of the functions performed by such agencies, but such fees shall not exceed 75 per centum of the estimated total Federal costs related to the weighing functions of such agencies, except costs incurred under sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Secretary and shall be deposited in miscellaneous receipts to the United States Treasury. 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 Department because of such termination.

"LICENSES AND AUTHORIZATIONS

"SEC. 8. [(a) The Secretary is authorized to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official inspection agency to perform all or specified functions involved in official inspection; 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; and to license any other competent individual to perform specified functions involved in official inspection under a contract with the Department of Agriculture. No person shall perform any official inspection functions for purposes of this Act unless he holds an unsuspended and unrevoked license or authorization from the Secretary under this Act.] (a) The Secretary is authorized (1) to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official inspection agency, or a State agency delegated authority under section 7 (e), to perform all or specified original inspection or reinspection functions involved in official inspection of grain in the United States; (2) to authorize any competent employee of the Department of Agriculture to (i) 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, and (ii) supervise the official inspection of grain in the United States and of United States grain in Canadian ports; and (3) to contract with any person to perform specified sampling and laboratory testing and to license competent persons to perform such func-

tions pursuant to such contract. No person shall perform any official inspection functions for purposes of this Act unless such person holds an unsuspended and unrevoked license or authorization from the Secretary under this Act.

"(b) All classes of licenses issued under this Act 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 inspection agency or by a State agency under a delegation of authority pursuant to section 7(e) or to operate independently under the terms of a contract for the conduct of any functions involved in official inspection under this Act: *Provided further*, That subject to paragraph (c) of this section, such license shall be reinstated if the licensee is employed by an official inspection agency or by a State agency under a delegation of authority pursuant to section 7(e) or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

"(c) The Secretary may require such examinations and reexaminations as he may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Department of Agriculture, to perform any official inspection function under this Act.

["(d) Persons employed by an official inspection agency and persons performing official inspection functions under contracts with the Department of Agriculture shall not, unless otherwise employed by the Federal Government, be deemed to be employees of the Federal Government of the United States.]

"(d) *Persons employed by an official inspection agency (including persons employed by a State agency under a delegation of authority pursuant to section 7(e), persons performing official inspection functions under contract with the Department of Agriculture, and persons employed by a State or local agency or other person conducting functions relating to weighing under section 7A shall not, unless otherwise employed by the Federal Government, be determined to be employees of the Federal Government of the United States: Provided, however, That such persons shall be considered in the performance of any official inspection functions or any functions relating to weighing as prescribed by this Act 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, United States Code, 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 of the United States Code.*

"(e) *The Secretary of Agriculture may hire (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on the date of enactment of this Act) to perform functions of official inspection under the United States Grain Standards Act and as personnel to perform supervisory weighing or weighing functions any individual who, on the date of enactment of this Act, was performing similar functions: Provided, That the Secretary of Agriculture determines that such individuals are of good moral character and are technically and professionally qualified for the duties to which they will be assigned.*

"REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION, OF LICENSES

"SEC. 9. The Secretary may refuse to renew, or may suspend or revoke, any license issued under this Act whenever, after the licensee has been afforded an opportunity for a hearing, the Secretary shall determine that such licensee is incompetent, or has inspected grain for purposes of this Act by any standard or criteria other than as provided for in this Act, or has issued, or caused the issuance of, any false or incorrect official certificate or other official form, or has knowingly or carelessly inspected grain improperly under this Act, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has used his license or allowed it to be used for any improper purpose, or has otherwise violated any provision of this Act or of the regulations prescribed or instructions issued to him by the Secretary under this Act. 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 Act. *The Secretary may summarily revoke any license whenever the licensee has been convicted of any offense prohibited by section 13 of this Act, or convicted of any offense proscribed by title 18, United States Code, with respect to performance of functions under this Act.*

["REFUSAL OF OFFICIAL INSPECTION"]

'REFUSAL OF INSPECTION AND WEIGHING SERVICES AND CIVIL PENALTIES

"SEC. 10. [(a) The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection otherwise available under this Act with respect to any grain offered for inspection, or owned, wholly or in part, by any person if he 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) has been convicted of any violation of section 13 of this Act, or that official inspection has 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 official inspection with respect to such grain would be inimical to the integrity of the official inspection service.]

"(a) *The Secretary may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection or the services related to weighing otherwise available under this Act with respect to any grain offered for such services, or owned, wholly or in part, by any person if he 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 associa-*

tion 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 13 of this Act 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 has been refused for any of the above-specified causes (for a period which has not expired) to such person, 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) For purposes of paragraph (a) of this section, a person shall be deemed to be responsibly connected with a business if he 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) Before official inspection is refused to any person under paragraph (a), such person shall be afforded opportunity for a hearing.]

"(c) *In addition to, or in lieu of, penalties provided under section 14 of this Act, 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 13 of this Act 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 \$50,000 for each such violation as the Secretary determines is appropriate to effectuate the objectives stated in section 2 of this Act.*

"(d) *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 United States Code.*

"(e) *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 to institute a civil action to collect the penalties in the appropriate court identified in subsection (h) of section 17 of this Act 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.*

"PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

"SEC. 11. (a)

No person licensed or authorized by the Secretary to perform any official inspection function under this Act, or employed by the Secretary in otherwise carrying out any of the provisions of this Act, 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 he determines are consistent with the purposes of this Act.

"(b) (1) *No official inspection agency or a State agency delegated authority under section 7(e), 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 he 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 inspection agency or a State agency delegated inspection authority. Further, no substantial stockholder in any incorporated official inspection 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 inspection 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 supervision of weighing authority under section 7A and each State or local agency or other person designated by the Secretary under such section to perform services related to weighing shall be subject to the provisions of subsection (b) of this section. The term 'official inspection agency' as used in such subsection shall be deemed to refer to a State or local agency or other person performing such services under a delegation or designation from the Secretary, and 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 supervision of weighing, or a State or local governmental agency is designated as an official inspection agency or is designated to perform weighing functions, 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, a board of trade, chamber of commerce, or grain exchange to perform official inspection or to perform services related to weighing except that for purposes of services related to weighing only, he may also designate any other person, if he determines that any conflict of interest which may exist between the agency or person or any member, 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 or objective operation of the functions performed by such agency.*

"(c) *The provisions of this section shall not prevent an official inspection agency from engaging in the business of weighing grain."*

"RECORDS

"SEC. 12. (a) *Every official inspection agency and every person licensed to perform any official inspection function under this Act 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 Act.*

"(b) *Every official inspection agency and every person licensed to perform any official inspection function under this Act required to maintain records under this section shall keep such records for a period of two years after the inspection or transaction, which is the subject of the record, occurred: Provided, however, 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 said two-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this Act.*

"(c) *Every official inspection agency and every person licensed to perform any official inspection function under this Act required to maintain records under this section shall permit any authorized representative of the Secretary to have access to, and to copy, such records at all reasonable times.*

"(d) *Every person who, at any time, has obtained or obtains official inspection shall, within the five-year period thereafter, maintain complete and accurate records of purchases, sales, transportation, storage, treating, cleaning, drying, blending, and other processing, and official inspections of grain, 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 person for handling of grain.*

"PROHIBITED ACTS"

SEC. 13. (a) No person shall—

"(1) knowingly falsely make, issue, alter, forge, or counterfeit any official certificate or other official form or official inspection 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 inspection mark, or knowingly possess, without promptly notifying the Secretary or his representative, or fail to surrender to such a representative upon demand, any falsely made, issued, altered, forged, or counterfeited official inspection certificate or other official form, or any device for making any official inspection mark or simulation thereof, or knowingly possess any grain in a container bearing any falsely made, issued, altered, forged, or counterfeited official inspection 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, or sampling of grain, or submitting grain for official inspection knowing that it has been deceptively loaded, handled, or sampled, without disclosing such knowledge to the official inspection personnel before official sampling;

"(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 inspection 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 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, condition, or quantity, or that particular facts have been established with respect to grain by official inspection under this Act;

"(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 Act or any officer or employee of the Department of Agriculture with respect to the performance of his duties under this Act;

"(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 Act or any officer or employee of the Department of Agriculture in, or on account of, the performance of his duties under this Act;

"(9) falsely represent that he is licensed or authorized to perform an official inspection function under this Act;

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

"(11) violate any provision of section 5, 6, 7(f)(2), 7A, 8, 11, or 12 of this Act [.]";

"(12) knowingly engage in falsely stating or falsifying the weight of any grain shipped in interstate or foreign commerce, or

"(13) knowingly prevent or impede any buyer or seller of grain or other person having a financial interest in the grain, or the authorized agent of any such person, from observing the loading of grain inspected under this Act 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 Act shall—

"(1) commit any offense prohibited by subsection (a);

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

"(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 Act if it resulted from gross negligence or was committed with knowledge of the pertinent facts.

["PENALTIES"]

["SEC. 14. (a) Any person who commits any offense prohibited by section 13 shall be guilty of a misdemeanor and shall, on conviction thereof, be subject to imprisonment for not more than six months, a fine of not more than \$3,000 or both such imprisonment and fine; 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.

"(b) Nothing in this Act shall be construed as requiring the Secretary to report minor violations of this Act for criminal prosecution whenever he believes that the public interest will be adequately served by a suitable written notice or warning.]

"CRIMINAL PENALTIES"

"SEC. 14. (a) Any person who commits an offense prohibited by section 13 (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 of the United States Code relating to crimes and offenses against the United States) 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 shall 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 Act shall be construed as requiring the Secretary to report minor violations of this Act for criminal prosecution

when he believes that the public interest will be adequately served by a suitable written notice of warning, or to report any violation of this Act for prosecution when he believes that institution of a proceeding under section 10 of this Act will obtain compliance with this Act and he institutes such a proceeding.

“(c) Any officer or employee of the Department of Agriculture assigned to perform weighing functions under this Act 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.

“RESPONSIBILITY FOR ACTS OF OTHERS

“SEC. 15. When construing and enforcing the provisions of this Act, 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 his employment or office 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.

“GENERAL AUTHORITIES

“SEC. 16. The Secretary is authorized to conduct such investigations, hold such hearings, require such reports from any official inspection agency or any person, and prescribe such rules and regulations as he deems necessary to effectuate the purposes or provisions of this Act. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this Act shall be determined by tests made in accordance with such procedures as the Secretary may adopt to effectuate the objectives of this Act, if the relevant facts are determinable by such tests. Proceedings under section 9 or 10 of this Act for refusal to renew, or for suspension or revocation of, a license, or for refusal of official inspection service not required by section 5 of this Act, shall not, unless requested by the respondent, be subject to the administrative procedure provisions in sections 554, 556, and 557 of title 5, United States Code.]

“SEC. 16. *The Secretary is authorized to conduct such investigations; hold such hearings; require such reports from any official inspection agency, any State agency delegated authority under section 7(e), licensee, or other person; require by regulation as a condition for official inspection, among other things (a) that there be installed specified sampling and monitoring equipment in grain elevators, (b) that approval of the Secretary be obtained as to the condition of carriers and containers for transporting or storing of grain, and (c) 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. The Secretary is further authorized to prescribe such other rules, regulations, and instructions as he deems necessary to effectuate the purposes or provisions of this Act. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading within the meaning of this Act shall be determined by tests made in accordance with such procedures*

as the Secretary may adopt to effectuate the objectives of this Act, if the relevant facts are determinable by such tests. Proceedings under section 9 of this Act 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, United States Code.

“ENFORCEMENT PROVISIONS

“SEC. 17. (a) For the purposes of this Act, 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 subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, and may administer oaths and affirmations, examine witnesses, and receive evidence.

“(b) 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 subpoena the Secretary may invoke the aid of any court designated in paragraph (h) of this section in requiring the attendance and testimony of witnesses and the production of documentary evidence.

“(c) Any such court within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena 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) 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) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power 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 the penalties set forth in [section 14] subsection (a) of section 14.

“(f) Repealed by section 203 of the Organized Crime Control Act of 1970, P.L. 91-452.

“[(g) Any officer or employee of the Department of Agriculture who shall make public any information obtained under this Act by the Department of Agriculture, without its authority, unless directed by the court, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in section 14 of this Act.]

“(g) *Any present or former officer or employee of the Department of Agriculture or of any State agency delegated authority under this Act or any official inspection agency, or any agency or person designated to perform services related to weighing under section 7A, or any*

present or former licensee, who shall make public any information obtained under this Act except pursuant to authority from the Secretary or a court order or otherwise in connection with law enforcement proceedings by the Federal Government, or pursuant to a request from a committee of the Congress, shall be guilty of a misdemeanor, and upon conviction thereof be subject to the penalties set forth in subsection (a) of section 14 of this Act. Nothing contained herein shall be construed as prohibiting such person from divulging information which he reasonably believes involves conduct prohibited under this Act or under title 18 of the United States Code.

“(h) 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 Act.

“RELATION TO STATE AND LOCAL LAWS; SEPARABILITY OF PROVISIONS

“SEC. 18. (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 function under this Act by official inspection personnel. Otherwise nothing in this Act shall invalidate any law or other provision of any State or subdivision thereof in the absence of a conflict with this Act.

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

【“APPROPRIATIONS”】

【“SEC. 19. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act to the extent that financing is not obtained from the fees and sale of samples as provided for in section 7 of this Act.”】

“APPROPRIATIONS

“Sec. 19. There are hereby authorized to be appropriated such sums as are necessary for monitoring in foreign ports grain officially inspected under this Act; improvement of official standards for grain, improvement of inspection procedures and equipment, and other activities authorized by section 4 of this Act; development and issuance of rules, regulations, and instructions; and other Federal costs incurred under this Act.

“REPORTING REQUIREMENTS

“SEC. 20. On February 1 of each year, the Secretary shall submit to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry a summary of all complaints received by the

Department of Agriculture from foreign purchasers and prospective purchasers of grain and other foreign purchasers interested in the trade of grain: 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.”.

* * * * *

TITLE 18, UNITED STATES CODE

§ 1114. Protection of officers and employees of the United States

Whoever kills any judge of the United States, any United States Attorney, any Assistant United States Attorney, or any United States marshal or deputy marshal or person employed to assist such marshal or deputy marshal, any officer or employee of the Federal Bureau of Investigation of the Department of Justice, any officer or employee of the Postal Service, any officer or employee of the secret service or of the Drug Enforcement Administration, any officer or enlisted man of the Coast Guard, any officer or employee of any United States penal or correctional institution, any officer, employee or agent of the customs or the internal revenue or any person assisting him in the execution of his duties, any immigration officer, any officer or employee of the Department of Agriculture or of the Department of the Interior designated by the Secretary of Agriculture or the Secretary of the Interior to enforce any Act of Congress for the protection, preservation, or restoration of game and other wild birds and animals, any employee of the Department of Agriculture designated by the Secretary of Agriculture to carry out any law or regulation, or to perform any function in connection with any Federal or State program or any program of Puerto Rico, Guam, the Virgin Islands of the United States, or the District of Columbia, for the control or eradication or prevention of the introduction or dissemination of animal diseases, any officer or employee of the National Park Service, any officer or employee of, or assigned to duty in, the field service of the Bureau of Land Management, [any employee of the Bureau of Animal Industry of the Department of Agriculture,] or any officer or employee of the Indian field service of the United States, or any officer or employee of the National Aeronautics and Space Administration directed to guard and protect property of the United States under the administration and control of the National Aeronautics and Space Administration, any security officer of the Department of State or the Foreign Service, or any officer or employee of the Department of Health, Education, and Welfare or of the Department of Labor or of the Department of Agriculture assigned to perform investigative, inspection, or law enforcement functions, while engaged in the performance of his official duties, or on account of the performance of his official duties, shall be punished as provided under sections 1111 and 1112 of this title.

MINORITY VIEWS OF HON. JOHN MELCHER

The bill H.R. 12572 approved by the Agriculture Committee to tighten the Nation's grain inspection and weighing system, during the greatest scandal in U.S. Department of Agriculture history, almost totally misses its mark.

In the two-year period that supposed reforms are to be phased in, the Secretary of Agriculture is empowered to resume non-federal inspection at export terminals, to put private inspectors back on the job and even to allow grain exchanges, boards of trade and chambers of commerce with grain firms in their membership to conduct official inspection.

The news release which the Committee issued about the bill, with its qualifying clauses and sentences, reveals its true character: "Primary feature of the new legislation is the provision for federal inspection at all export port terminals," the release boldly states. But the next sentence explains that this primary feature isn't really assured because "The actual inspection may be done either by U.S. Department of Agriculture personnel or state agencies through delegation of authority by the Secretary of Agriculture."

The press release boldly proclaims that "One of the important criteria set forth in the legislation as to qualification of official inspection agencies and employees of these agencies is that there shall be no conflict of interest, such as a financial interest in a business involving the storage or merchandising of grain." But then the release immediately points out:

The Secretary, however, does have the authority to designate a grain exchange or board of trade or chamber of commerce to render inspection services if he determines any conflict of interest situation that may exist is not such as to jeopardize the integrity of effective and objective operation of the inspection system.

In another instance, the release announces that "weighing services of the grain trade are also covered by the legislation in regard to operations at export terminals" and then comes the let-down: "—but not at interior points." The reader finally learns that "The actual weighing itself may continue to be done by employees of a private company. The Secretary may, at his discretion, however, require that at port elevators the actual weighing and testing of scales be done only by USDA or by designated agencies such as state or local government agencies or private agencies that meet the criteria specified by the Secretary."

H.R. 12572 is a "but" and "However" bill of such total inadequacy that it will not instill confidence in our inspection system or in American grain either at home or abroad *but*, on the contrary, would

probably convince buyers that the Congress itself is not interested in real reform if it were finally enacted.

It would take two dozen amendments—and even then the measure would wind up as a patchwork of possibly overlapping and conflicting provisions—to make this bill acceptable to go to conference with the Senate.

Some Committee members voted to report it out of Committee and on to the floor only so there can be action on a reform measure, which has already been too long delayed.

Last September 23, the Senate Committee on Agriculture and Forestry reported out, and within a week the Senate passed, S.J. Resolution 88 giving the Secretary of Agriculture emergency powers to enable him to take immediate action to strengthen our system for inspection, handling and export of grain, and for other purposes. Federal inspectors cannot make original inspections under present law and USDA needed that authority quickly so authority of inspection agencies, particularly at the Gulf of Mexico, which stood accused of scores of irregularities, could be suspended without interrupting export trade. However, the House Committee shelved S.J. Res. 88 and is only now, six months later, reporting out anything on the subject to the House floor for action.

Now that a measure is finally on the floor, the House would do well to substitute a measure drafted to adopt the reforms recommended by the General Accounting Office, which assigned a staff of 40 investigators for 7 months to an investigation of the situation. Such a bill is H.R. 12156, by Melcher and Harkin in the House, and by Senators Humphrey, Talmadge, Clark and McGovern in the Senate. The Senate bill has become the basic measure on which their Committee on Agriculture and Forestry is now working, and is expected to report.

The shortcomings of the House bill, illustrated by the “buts” and “however’s” in the Committee’s press release are too numerous to deal with in detail in minority views. Some of them are:

1. Failure to assure all-federal inspection at export points.
2. Approval of inspection by private agencies including even private agencies with ties to grain trade.
3. Failure to provide federal weighing or even certification of weight of export cargoes and it does not require continuous supervision of weighing.
4. Fails to provide supervision of weighing at interior points and directs a USDA study of this problem in face of an existing GAO study which already recommends such supervision.
5. Authorizes the Secretary of Agriculture to waive prosecution of crimes and assess civil penalties with no minimum penalty required.
6. Provides inadequate criminal penalties and authorizes civil penalties of questionable constitutionality or adequacy. Irregularities could still be highly profitable.
7. Includes a “gag rule” which would prevent federal or private inspectors making public any information, except upon approval of the Secretary of Agriculture, a court or a Congressional committee, about inspection services unless such person “reasonably believes” it involves unlawful activity—a provision which would

hamper discovery of both past and future inadequacies and irregularities in the inspection system.

8. Increases federal supervision costs by putting one layer of government over another at export and other points.

9. Fails to create a grain standards and inspection agency within the Department of Agriculture where responsibility for honest, adequate inspection, grading, testing and weighing of grain in commerce clearly reposes, preferably headed by an Administrator confirmed by the U.S. Senate.

10. It fails to forbid, or even make unprofitable, the adulteration of grain.

Some of these points need further comment:

ALL-FEDERAL INSPECTION AT PORTS

The grain scandal involves large sums, enormous losses of United States trade abroad, and such widespread bribery, larceny by short weighting and evasion of federal standards, that it has few parallels even in the annals of organized crime in the United States.

By late September last year, in New Orleans alone, a Federal Grand Jury had returned indictments against 48 individuals and 4 corporations charging a total of 265 violations of federal criminal statutes, including 159 counts of bribery, 57 counts of corrupt influence on inspection personnel, and 24 counts of evasion.

This is not nearly all. There have been other indictments in Houston and a federal grand jury is now investigating the situation in Philadelphia, another export point for grain.

The General Accounting Office has reported to us, after interviewing 68 importers in 9 countries abroad, that there is much dissatisfaction with U.S. shipments. They reported:

Many foreign customers believe they regularly receive lower quality and weight than they paid for. The resulting cost in diminishing foreign sales in past years and other effects is not calculable. Many buyers, however, said they had reduced their purchases of U.S. grain because of the problems they had experienced and were buying more from other countries. A few said they had stopped buying U.S. grain altogether.

In spite of all this, in spite of the fact that Louisiana state inspectors have been indicted, and in spite of reported non-cooperation from the state inspection agency in Louisiana by U.S. District Attorney Gallinhouse of New Orleans, the Committee bill makes it possible for that same state inspection agency to continue to make the U.S. grain inspections at the largest grain export port in the world.

The Committee voted three times on all-federal inspection at export terminals. The Committee’s staff draft of a bill did not provide for it, and a motion to require it failed on a tie vote in mid-November. Five days later, after the Committee was made aware that the state-chartered agency in Baton Rouge was under investigation, it voted 22 to 10 for all-federal inspection. By early March, however, the Committee reversed itself again and voted to allow state inspection at export points 22-to-19.

There has been tremendous pressure on Committee members to permit both state and private licensed inspection at export ports, but all-federal inspection—as the Committee's own press release confirms ahead of its modifying sentence—should be the “primary feature of new legislation.” It should be, but isn't. As the release states, “The actual inspection may be done by U.S. Department of Agriculture personnel or state agencies through delegation of authority by the Department of Agriculture.”

PRIVATE AGENCIES

One of the most scandalous aspects of the current grain inspection system has been the designation of private agencies with clear conflict-of-interest participants, to conduct inspections. The Committee bill does not forbid such conflicts of interest by failing to repeal Section 11 of the existing law which authorizes the Secretary to make exceptions to regulations. But it goes beyond that and explicitly authorizes the Secretary to designate as official agencies for grain shipped in the interior, a board of trade, grain exchange or chamber of commerce if he determines that any existing conflict of interest “is not such as to jeopardize the integrity or the effective or objective operation” of the program.

The Department of Agriculture on February 12 proposed to prohibit inspection by boards of trade, chambers of commerce and grain exchanges. The GAO on February 17 recommended against conflict of interest “actual or potential.” But the Committee bill being sent to the House approves of such agencies by name, even with grain firms in their membership, if the Secretary sees fit. That provision alone is enough to shatter any illusion that anyone, at home or abroad, might have that we are serious about grain inspection reform.

WEIGHING

One railroad executive has testified that if railroads had actually lost as much grain from cars as companies have claimed, it would take a snow plow to dig out their tracks. The GAO report tells us that of 53 foreign buyers who had complaints against U.S. shipments, 26 or virtually half said their complaints involved both short weights and quality.

The weighing provisions of the Committee bill are deficient because it permits delegation of weighing at ports to state agencies; it does not require continuous supervision of weighing; it does not require an official weight certificate for export grain and only proposes a one year study by USDA of the weighing and certification of weights at interior points. The GAO has already made such a study and recommended supervision at interior points. Another study is a waste and the current bill should make provision for supervision of weighing in the interior.

WAIVING CRIMINAL PENALTIES

The Committee bill includes a provision originally proposed by the Administration under which the Secretary of Agriculture, in cases where there has been a violation of law, may make a decision not to

report such criminal violation for prosecution. In lieu thereof he may assess a civil penalty up to \$50,000 for each such violation as the Secretary finds appropriate but it can also be nothing—there is no minimum prescribed. I am advised that, although the courts have upheld Executive agencies assessing civil penalties, the decisions leave a serious doubt about assessing punitive penalties as in this instance, especially where the maximum civil penalty can exceed the maximum monetary criminal penalty prescribed in the law.

CRIMINAL PENALTIES

In any event, neither the maximum civil nor the maximum criminal penalties provided in the Committee bill is adequate.

The maximum criminal penalty is a year in jail and/or a \$10,000 fine for a first offense, and five years and/or a \$20,000 fine for each offense thereafter.

Either a \$50,000 civil penalty or a \$20,000 fine is a pitifully inadequate maximum considering the millions of dollars that can be gained by illegal grain operations. Crime can still pay.

The Nation has been shocked by two giant grain firms “getting off” with \$10,000 fines, after pleading “no contest” to charges of misgrading and systematically stealing grain. At the proceedings, an F.B.I. agent estimated that the illegal activities brought in \$5.4 million annually, and the judge observed that “stiffer” fines were needed.

At minimum, the monetary penalties should at least treble the monetary amounts involved, as in the case of the bribery statute (Section 201 of the Federal Criminal Code). Fortunately, that law is invoked by the Committee bill to cover bribery involved in grain matters, but bribery is the only aspect of grain irregularities in which the fine can assure the unprofitability of criminal activities.

THE GAG RULE

In spite of Watergate, the bill includes a section from an Administration proposal which would make it a crime for any present or former employee of the Department of Agriculture or any official inspection agency, or any agency designated to perform services related to weighing under its Section 7A, or for any present or future licensee, to make public any information obtained under the Grain Standards Act without the authority of the Secretary of Agriculture, a court, or a Congressional committee unless he “reasonably believes” it relates to unlawful activity. This places the burden of proof, in the vaguest possible words, on someone who may wish to expose wrongdoing.

This provision would prohibit anyone from giving information on lawful activities to individual members of Congress, the press and the general public. An employee could not talk about how the new law is working, he could not address a business group, make a speech to a Rotary Club, or exercise his right of free speech in relation to his work, without first getting official clearance. A First Amendment problem is clear. It should be equally clear that this will be a deterrent to exposure of shortcoming in the grain inspection system as well as crime and a great tool in the hands of any administrator who wishes to silence an employee critical of procedures which, while not illegal of themselves, protect criminality.

UNNECESSARY EXPENSE

The GAO has pointed out that supervision of state and private inspection creates duplicating expense by requiring both an authorized inspector and a supervisor on the job.

Witnesses before the Senate Committee on Agriculture and Forestry have described how personnel in the grain trade are trained to take advantage of even the momentary absence of supervisory personnel to switch samples, dump off-grade grain into boats and engage in other malpractices. When the supervisory personnel goes home for the night, it has been a bonanza for crooked operators loading vessels around the clock.

Last year, in response to the grain scandal, appropriation for administration of the Grain Standards Act, jumped from \$3.5 million to \$8.4 million, and \$8.7 million is requested this year so the Department can "improve its supervision" of licensed inspectors.

The system established by the Committee bill, at ports and elsewhere, puts one layer of government on top of the other. Extensive supervisory activities required by it will mean more paperwork, more red tape, more government forms to fill out and, for no good reason, it will cost the American taxpayers more money than all-federal inspection at export points and major terminals. Only a part of supervisory costs are covered by fees for the services performed.

In the interest of actually restoring confidence in U.S. grain and recapturing already lost trade abroad, and in the interest of a square deal for American grain producers, a far stronger bill, such as H.R. 12156 patterned on the GAO recommendations and a companion to the Senate bill now getting favorable consideration from its Committee on Agriculture and Forestry, should be substituted for this House Committee bill.

JOHN MELCHER.

ADDITIONAL VIEWS OF HON. BOB BERGLAND, HON. CHARLES ROSE, HON. JOHN BRECKINRIDGE, HON. FRED W. RICHMOND, HON. RICHARD NOLAN, HON. BERKLEY BEDELL, HON. MATTHEW F. McHUGH, HON. FLOYD FITHIAN, HON. NORMAN E. D'AMOURS, HON. PAUL FINDLEY

The Committee has taken great strides in providing long-lacking improvements to the Grain Standards Act which will rebuild the confidence of foreign buyers in the quality of American grains.

Our main concern is with section 4, subsection (e), which authorizes the Secretary of Agriculture, "in his discretion," to "delegate authority to the State agency to perform all or specified functions involved in official inspection at export port locations. . . ."

Of our 30 active grain export ports, 16 now have inspection programs supervised by State governments and 14 supervised by private concerns. While the Committee bill preempts these private systems, it would allow the Secretary to license State agencies. This could mean a continuance of the difficulties now plaguing the export industry.

In our view there is a great need to establish a uniformity in the grading standards for grain. Whether the export point is Seattle, New Orleans or Duluth, the criteria should be the same.

An all Federal program would provide this uniformity at all 30 points.

It will also assure through the normal procedure of rotating the assignments of Federal personnel, that the personal friendships and alliances—a major cause of our greatest difficulties with the present inspection system—will not be allowed to jeopardize the professional judgments of the inspectors.

This system of direct Federal inspection will not mean additional costs to the taxpayer or consumer. Its inherent efficiency should, in fact, result in reduced costs.

We will, therefore, offer an amendment to strike that language in the Committee bill authorizing the Secretary to delegate authority and responsibility to State agencies.

This question was considered by the Committee and decided by a vote of 21-19. We think the amendment goes to a basic question and should be decided by the full House.

BOB BERGLAND.
CHARLES ROSE.
JOHN BRECKINRIDGE.
FRED W. RICHMOND.
RICHARD NOLAN.
BERKLEY BEDELL.
MATTHEW F. McHUGH.
FLOYD FITHIAN.
NORMAN E. D'AMOURS.
PAUL FINDLEY.

DISSENTING VIEWS OF HON. TOM HARKIN

I voted against the final passage of H.R. 12572 because this bill does not fully meet the need to reform the present scandal-ridden grain inspection system. There are two types of government regulation: 1) regulation which places a burden upon industry, and 2) regulation which stimulates free and open markets. Grain inspection falls under the latter category. It does not place restrictive limitations upon free enterprise, but rather, insures that all players in the economic market conduct business in an honest and proper manner. Grain inspection can be compared to regulation by such agencies as the Security Exchange Commission and the Commodities Futures Trading Commission.

The grain trade is extremely important to farmers and to the economic well being of America. A strong grain inspection system is needed to assure foreign customers of U.S. grain that their purchases are of the quality and quantity stated in the sales agreement. Since 1966 the Department of Agriculture (USDA) has received 582 complaints from foreign buyers regarding the quality and quantity of U.S. grain. The indictments in New Orleans and other ports have exposed the ubiquitous nature of the corruption in our present inspection system.

The rewards for corrupt action far outweigh the penalties. U.S. grain covered by the U.S. Grain Standards Act was valued at \$33 billion in the 1974 crop year and the U.S. exported \$12.5 billion worth of grain in fiscal year 1975. H.R. 12572 does present stiff penalties for violations of the Act.

While H.R. 12572 does provide certain improvements to the present law, it generally ignores the recommendations and study of the General Accounting Office (GAO). At Congressional request, GAO devoted 40 investigations to the study over an 8 month period. This study is the most comprehensive study of the grain inspection system ever conducted. With other members, I plan to offer amendments to H.R. 12572 which would implement the GAO recommendations.

The fundamental weakness in H.R. 12572 is the retention of state inspection agencies at the export elevators. This provision not only runs counter to the strong recommendations of the GAO but also is in conflict with the recommendations of Gerald Gallinghouse, U.S. District Attorney for Louisiana who is responsible for prosecuting those involved in the "grain scandals." Even Walter Klein, President of the Bunge Corporation, stated in an editorial in the Washington Post that, "I doubt that a self policing system, even coupled with closer supervision by private and state inspection agencies, can of itself restore public confidence."

"Finally, with respect to port elevators, the present system has inherent defects that can best be cured by the institution of federal courts."

Grain sold overseas is shipped "certificate final." Klein has stated that this is a necessary action because grain often deteriorates in transportation and such a condition of sale is needed to protect the exporting firm from excessive loss and injury. A portion of the problem results from antiquated grading standards. The inspection certificate is highly important to the conduct of the free market, and its validity is recognized in International Law. An English court has upheld the validity of the inspection certificate even though both buyer and seller agreed that there was an error in that particular shipment. Federal inspection at the export terminals is the only way to restore foreign confidence in these certificates, which are accepted as the word of the United States Government in international commerce.

Many individuals point out that the federal government has no monopoly upon honesty and integrity. However, no federal inspectors in Louisiana have been indicted. A system of Federal inspection would also present certain safeguards to prevent corruption such as direct supervision and the rotation of grain inspectors. The elevators which I visited in Louisiana pointed out the "sweet-heart" relationships that exist between the grain trade and grain inspectors. On the interior, using both private and state inspection companies, the USDA should maintain a contractual relationship with these agencies which will afford a higher degree of uniformity and integrity through greater supervision.

The conflict of interest language of H.R. 12572 is also weaker than the conflict of interest regulations recently promulgated by the USDA. The bill prevents "substantial" conflicts of interest while the USDA regulations prohibit *all* conflicts of interest both "actual or potential." These regulations were promulgated in response to the recommendations of the GAO. The law exists to provide strong conflict of interest regulations. I see no reason to weaken the existing statute. If anything, the statute should be strengthened to the level of the USDA regulations by clarifying certain vague provisions.

The weighing provisions of H.R. 12572 are also inadequate to solving the problem of the grain inspection scandal. Most indictments, thus far, involve corruption by misweighing grain. Weighing should be incorporated into the U.S. Grain Standards Act as an integral function of regulation. 100% supervision of weighing is presently conducted at most major grain elevators by the American Association of Railroads. Accurate weights are fundamental in an honest market. H.R. 12572 brings weighing into the Act at only export elevators. If weighing is incorporated fully into the Act, 100% supervision of weighing would be conducted at major inland elevators, giving the local elevators assurance of a fair and honest market when shipping to these major terminals. GAO has recommended such uniformity in the statute. I have also received a number of documents from local grain elevators which indicate that misweighing is not unique to the export market.

H.R. 12572 also contains a provision, as does the present law, which would prohibit any present or former grain inspection official from making public information regarding the weighing or inspection of grain. Such revelations could be purely informational. This is nothing more than a gag rule, and such a provision could greatly impair the collection of information by the press or any other interested person. This language would deny First Amendment rights to the inspection personnel and is, I feel, unconstitutional. Trade secrets are covered by other U.S. laws such as the Privacy Act.

My objections to H.R. 12572 address all major provisions of the bill. I plan to offer a series of amendments which will incorporate the changes I feel are necessary to strengthen the bill.

TOM HARKIN.

DISSENTING VIEWS OF HON. W. HENSON MOORE
AND HON. RICHARD KELLY

We dissent from the Majority views accompanying this bill for reasons as set forth below.

We do not question the motives or good intentions of my colleagues in reporting this bill in the form it is reported, as we agree with them that legislative action is needed. However, we disagree with the federalization of the grain inspection and supervisory weighing functions at export port locations as set forth in this bill.

There are strong provisions on conflict of interest, increased criminal penalties and increased authorities to the Secretary of Agriculture in this bill which we strongly endorse, but we submit that the Committee in federalizing particular functions in the grain inspection and weighing system has gone further than was necessary in reporting this legislation.

Let Us Not Legislate Using A Discredited Principle!

The thrust of this bill is to "federalize" grain inspection at export port locations in the United States. As noted in Appendix A attached hereto, this involves 17 states and 38 export port locations in those states and cannot be said to be a relatively slight further expansion of the Federal government into what heretofore was a state, local government and private sector function.

The basic premise of this legislation appears to be that honesty can be legislated, that federal employees are more honest than anyone else, and that the way to insure honesty is to direct the Federal government through its agencies and employees to perform grain inspection and certain services related to grain weighing. This is odd as the bill authorizes the Secretary of Agriculture to hire the present inspectors as federal employees without regard to title 5 of the U.S. Code governing appointments in the competitive service (see Section 6(e) of H.R. 12572).

The message this legislation will send to all bureaucrats and Federal agencies is that if you do a poor job of supervising and regulating State agencies, local government agencies, or privately licensed agencies as that has been delegated to you, the Congress will reward you by permitting you to expand your bureaucratic empire and Congress will expand on the delegation of its authority to you.

The Undersecretary of Agriculture on March 3, 1976, during the markup of this bill—and we might add the Department does not seek this expanded federalization—admitted that USDA had not been aggressive and vigilant in the past in enforcing the Grain Standards Act provisions and supervisory authority it had :

* * * * *
Mr. KNEBEL. This comports with the action [on weighing and inspection] we have already initiated within the Department on February 12.

We met with the chief executive officers of the major grain exporting companies. We have asked them to voluntarily come in to an affirmative action program which envisions Class 1 weights at all export points and elevators.

We are presently working with these companies to get them into this posture right now. I think you are going to find that the attitude of this Department is going to be very positive and aggressive in the coming year.

* * * * *

MR. KNEBEL. As I said last Tuesday, when this Committee began its markup session, I think that we are starting out with a major premise that the Department has not done enough, or been vigilant enough in the past. That is behind us.

We are going forward with what I feel is a very aggressive stance.

In our opinion, the foregoing principle—that only the Federal government employee is honest, that only further Federal intervention and involvement in grain inspection and weighing systems will cure any lack of integrity in those systems even though Federal inspection supervision has been lax and ineffective in the past, that we can legislate honesty by hiring a private employee and making him a Federal employee—is a discredited principle with voters, and the only place the principle lives is in the halls of Congress.

We believe history will reflect that the expansion of the Federal government into our lives, our businesses, our farms, our schools and our homes—though accelerated in recent years—has been a gradual process of Federalizing this and that function which Congress saw a need for at the time. We now sense that our citizens—and more particularly our taxpayers because as more and more functions are performed by the government, there are fewer and fewer taxpayers in the private sector to bear the cost burden—are beginning to perceive the federalization concept for the cure of all ills as a discredited principle.

Many people quote Abraham Lincoln on this subject—some incorrectly and only partially—and we think his words in their totality take on special meaning today:

The legitimate object of government is to do for a community of people whatever they need to have done, but cannot do at all, or cannot so well do, for themselves, in their separate and individual capacities. *In all that the people can individually do as well for themselves, government ought not to interfere.* (Emphasis supplied).

Dishonest People and Inadequate USDA Supervision Caused the Current Grain Inspection Problems

There have been serious problems in the national grain inspection system which have led to extensive criminal abuses, such as intentional misgrading of grain, short weighing, and using improperly inspected carriers.

A number of indictments have been handed down by grand juries and a number of guilty pleas have been entered by those indicted.

Obviously dishonest people have committed criminal acts as they relate to the national grain inspection system, and they are being prosecuted and convicted for those acts.

We are interested in strong enforcement of our laws regardless of whether private employers and employees are involved in grain inspection and weighing or whether State or Federal employees are performing those functions.

In this regard, we note that in 1967 Congress amended the Federal Meat Inspection Act such that—despite provisions for Federal/State cooperation—meat inspection under that Act based on the record to date, will soon become largely conducted by the Federal government. However, the success of Congress in purifying the meat inspection system, by Federalizing it, has been substantially less than a smashing success. In the early 1970's, we understand that approximately 40 meat inspectors and graders in the Boston area were indicted and convicted under the criminal provisions of the Act. More recently, a meat inspection scandal occurred in Los Angeles, according to Justice Department officials, which was concluded in 1975 and resulted in 37 indictments of 66 defendants—15 of whom were USDA meat graders (all of the latter were convicted). One can only speculate that these are not isolated incidents and that similar incidents may arise in the future despite the federalization of meat inspection.

The Department of Agriculture has acknowledged that it was not as aggressive in its supervision and enforcement of the U.S. Grain Standards Act as it should have been and as it now is. Recently, by the institution of its affirmative action program involving weighing and its additions in personnel to increase inspection supervision, the Department has indicated that it is much more aggressively pursuing effective administration of the grain inspection system. The Department is also aggressively investigating wrong doing and providing Federal prosecutors with evidence of violations of Federal laws.

In our opinion, the Committee has overreacted to the publicity surrounding disclosures of illegal acts by dishonest people. This overreaction will result, we submit, in additional costs to the taxpayers and additional costs to producers—who ultimately will have to bear a substantial part of the additional costs of increased fees for inspection which will result from this bill. (See Appendices B through G.)

Bill Goes Beyond Legislation Adequate to Correct Ills

In our opinion, the Committee's action to federalize inspection and weighing services at export port locations rather than standing on any principle of legislating *only* what was needed to correct certain deficiencies in national grain inspection and weighing systems went beyond that to a preoccupation with attempts to meet objections and to compromise with those who would go even further in federalization.

We are fearful that if we in the Congress keep this up, we will, in our search for consensus, compromise our principles as legislators and as a nation such that those principles will be eroded away. We believe we should always legislate carefully and only to the extent necessary to correct ills, for in excessively legislating and liberally delegating power, that power may be abused in the hands of bad administrators.

In this instance, the Department of Agriculture had many recommendations for reforms needed in the existing law. None of their

recommendations—most of which were incorporated in H.R. 9467—went as far as the Committee bill, H.R. 12572.

H.R. 12572 contains many provisions which I endorse and which were recommended in principle by the Department of Agriculture:

1. It provides that official inspection (or the services related to weighing) may be refused by the Secretary if persons violate proscribed activity standards, are convicted of crime, or where the Secretary's action by providing such service with respect to certain grain would be inimical to the Act.

2. Civil penalties of up to \$50,000 for each violation were provided for in the bill.

3. Of the prohibited acts listed in section 13 of the Act, three are made felonies under title 18 of the U.S. Code and subsequent offenses of the other prohibited acts mentioned in section 13 are made felonies carrying imprisonment of up to five years and fines up to \$20,000, or both. (Second offenses formerly were misdemeanors.) The remainder (first offenses) are made misdemeanors, but the penalty is increased to up to one year imprisonment, \$10,000 fine, or both (formerly \$3,000 fine or six months in jail or both).

4. A strong conflict of interest provision is contained in the bill such that officers, employees, etc., of inspection agencies will purge themselves of interests in transportation, storage, or other commercial handling of grain, and conversely, those with interests in commercial grain handling firms will purge themselves of interests in inspection agencies.

5. Authority is provided to suspend or revoke designations of official inspection agencies.

6. Authority was given the Secretary to require official inspection agencies to meet their responsibilities by increased training, staffing, reporting, etc.

The foregoing provisions along with a better job of supervision by USDA would solve the problem as far as legislation can solve it. In addition, an amendment which Congressman Moore introduced will permit persons with a financial interest in grain which is to be inspected an opportunity to observe the weighing, loading and official inspection of such grain under conditions prescribed by the Secretary.

Had the Committee stopped there, we would have supported such a bill.

Conclusion

We recommend to the House that this bill be amended to remove the total federalization aspect or defeated as having gone unwisely too far.

W. HENSON MOORE.
RICHARD KELLY.

APPENDIX A

EXPORT PORT LOCATIONS¹

Alabama: Mobile.
California: Long Beach, Stockton, San Diego, San Francisco, Wilmington, West Sacramento.
Illinois: Chicago.
Louisiana: New Orleans.²
Maryland: Baltimore.
Michigan: Carrollton, Zilwaukee.
Minnesota: Duluth.
Mississippi: Pascagoula.
New York: Albany.
Pennsylvania: Philadelphia.
Ohio: Huron, Maumee, Toledo.
Oregon: Astoria, Portland.
South Carolina: North Charleston.
Texas: Beaumont, Brownsville, Corpus Christi, Deer Park, Galveston, Houston, Port Arthur.
Virginia: Chesapeake, Norfolk.
Washington: Kalama, Longview, Seattle, Tacoma, Vancouver.
Wisconsin: Milwaukee, Superior.

¹ Source: U.S. Department of Agriculture.

² Will include area from Baton Rouge to mouth of river.

Federal and States weight supervisors in the normal course of their other duties. Also, no costs have been estimated for the weight study required at port elevators and at other than port elevators. It is understood that the House Agriculture Committee would furnish guidance on the scope and extent of that study.

APPENDIX B

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 23, 1976.

HON. W. HENSON MOORE,
House of Representatives,
Washington, D.C.

DEAR MR. MOORE: This responds to your request for cost information on proposals to amend the U.S. Grain Standards Act, specifically H.R. 9467 and H.R. 12572, as well as the cost of the current system of grain inspection and weighing.

H.R. 9467, the Administration's proposal for retention of the Federal-State-private system for grain inspection, would cost a total of \$39.8 million and 3,269 man-years. Included in this amount is \$9.8 million Federal funding and 469 man-years, \$9.5 million State funding and 1,200 man-years, and \$20.5 million private funding and 1,600 man-years. With respect to the source of the Federal funding, \$6.42 million would be appropriated, and \$3.4 million would be derived from fees for services. (The \$6.42 million in appropriated monies includes \$5 million provided by the Congress in the FY 1976 Agriculture Appropriation Bill to hire additional grain inspectors.)

H.R. 12572, the bill ordered reported by the House Agriculture Committee on March 17, 1976, would cost an estimated \$77.2 million and 4,541 man-years. With respect to the grain inspection functions, the total costs would be \$59.9 million and 3,605 man-years. This would include \$35.8 million (9.2 million by direct appropriation and \$26.6 million to be derived from fees) and 1,288 man-years for total Federal costs. \$9.1 million and 1,144 man-years for State costs, and \$15.0 million and 1,173 man-years for private costs. The weighing operations under the bill would be \$17.3 million and 936 man-years. This estimate is based on State participation at the same rate as at present. Those States now supervising weighing would be delegated the responsibilities of the Secretary under the new law. Of this amount, the Federal portion would be \$12.6 million (\$3.2 million by direct appropriation and \$9.4 million derived from fees) and 683 man-years and the States' portion \$4.7 million and 253 man-years. No estimates have been made for the aspect of the program that encompasses the designation of weighers and scale testers. Expenses for such functions could be absorbed in the above estimates as such functions could be done by

(92)

CURRENT SYSTEM

Grain Inspection.—Estimated cost of the present grain inspection system is \$40.6 million and 3,300 man-years as of January 1, 1976. This includes a total of \$10.6 million Federal funding and 500 man-years (includes \$5 million added by Congress in the fiscal year 1976 Agriculture Appropriation Bill for increased Supervision); \$9.5 million State funding and 1,200 man-years; and \$20.5 million private funding and 1,600 man-years.

Weighing.—Financing of the present weighing system is through user fees charged by the supervisory weighing agencies for performing the supervisory weighing services. Since the fee per 1,000 bushels varies at the various port locations based on differences in handling and shipping procedures, a weighted average cost is determined for each port area covering both inbound and outbound shipments by a variety of transportation modes. The total cost of the present weighing system using the weighted averages per port area is about \$5.9 million based on a CY 1975 grain handle of approximately 7.6 billion bushels.

Enclosed are tabular data that you requested be updated. We hope this information will be of assistance to you.

Sincerely,

RICHARD L. FELTNER,
Assistant Secretary.

Enclosures.

APPENDIX C

ESTIMATED COST OF H.R. 12572, A FEDERAL/STATE INSPECTION SYSTEM AT EXPORT LOCATIONS AND STATE/PRIVATE AT INTERIOR LOCATIONS, INCLUDING PROVISIONS FOR (1) ORIGINAL INSPECTIONS ON INTERIM BASIS, (2) STANDARDIZATION STUDIES, (3) INTERNATIONAL MONITORING ACTIVITIES, (4) INVESTIGATIONS FOR CONFLICTS-OF-INTEREST, (5) DESIGNATION ACTIVITIES, AND (6) MONITORING OF GRAIN FIRM RECORDS

[Dollar amounts in thousands]

	(1)		(2)		(3)		(11)		(12)	
	Amount	Man-years								
Grain Division:										
Washington:										
Program management:										
Manager.....		13		1		14				8.0
Other.....		7				7				8.0
Subtotal.....	\$595	20	\$25	1	\$620	21	\$323	16.0	\$919	37.0
Program operations:										
Technical.....		13		3		16				18.0
Nontechnical.....		2				2				6.0
Subtotal.....		405		75		480		623		24.0
Subtotal.....										1,073
Subtotal.....										42.0
Region:										
Program operations:										
Technical.....										
Nontechnical.....										
Subtotal.....										

Field:										
Program operations:										
Technical.....		174		105		280				331.0
Nontechnical.....		47		102		149				404.5
Subtotal.....	4,244	221	4,336	208	8,580	429	13,530	735.5	21,378	1,164.5
International:										
Program operations:										
Technical.....										3.0
Nontechnical.....										7.5
Subtotal.....										10.5
Transition costs:							265		259	
Agency and departmental overhead and reserve.....							1,249		1,249	
National Finance Center.....		464		19		928	32		2,290	34.5
Technical Services Division.....							6,436		6,436	
Subtotal, Federal.....	5,708	269	14,900	231	10,608	500	26,047	788.5	35,794	1,288.5
State.....	3,500	1,200			9,500	1,200	(443)	(56.0)	9,057	1,144.0
Private.....	20,500	1,600			20,500	1,600	(5,471)	(427.0)	15,029	1,173.0
Grand total.....	35,708	3,069	4,900	231	40,608	3,300	20,135	305.5	59,880	3,605.5
Estimated weighing costs:										
State agency costs.....									4,651	253.0
Federal weighing costs.....									10,531	588.0
Federal supervisory costs.....									2,074	95.0
Weighing, subtotal.....									17,256	936.0
System, grand total.....									77,136	4,541.5

1 Excludes \$100,000 provided exclusively for audit purposes.
 2 Federal inspection activity at export locations in States of Illinois, Michigan, New York, Pennsylvania, Louisiana, Mississippi, Ohio, and Texas.

Source: U.S. Department of Agriculture.

APPENDIX E

Fiscal year	Number of official inspection agencies	Number of official inspection personnel			U.S. grain inspection data			Supervision and appeals				
		Number of field offices, USDA	Licensed inspectors	Licensed samplers and technicians	Quantity U.S. inspected (thousand bushels)	Number of inspections	Quantity inspected Canada (short tons)	Field offices, appeals	Board of appeals and review (grain)		Appeals	
									Grain graders	Super-visions		Opinions
1943					1,919,724		55,393				872	
1944					1,996,464		48,417				681	
1945					1,945,638		59,024				638	
1946					2,063,823		53,128				425	
1947					2,117,641		46,640				462	
1948					2,100,479		56,687				631	
1949					2,318,304		80,954				1,098	
1950					2,120,050		73,743				1,910	
1951					2,440,607		99,053				1,444	
1952					2,465,895		99,599				1,444	
1953					4,811,939		86,116				779	
1954					4,284,334		82,277				756	
1955					3,998,266		75,295				652	
1956					4,803,923		91,238				682	
1957					5,589,547							
					5,720,498							
					3,647,143							
					4,133,866							
					4,097,624							
					4,050,195							
					4,544,055							
					4,036,356							
					4,650,822							
					4,811,939							
					4,284,334							
					3,998,266							
					4,803,923							
					5,589,547							
					5,720,498							

1958					3,042,362		74,274				721	
1959					3,511,548		60,213				886	
1960					3,058,349		43,143				514	
1961					3,620,688		36,189				401	
1962					3,651,988		32,813				427	
1963					3,469,017		31,426				351	
1964					3,384,824		27,137				306	
1965					3,280,000		24,631				330	
1966					3,648,345		27,433				454	
1967					3,185,552		27,715				298	
1968					2,838,556		17,406				295	
1969					2,926,733		18,406				14	
1970					2,906,733		20,402				588	
1971					2,926,733		15,912				183	
1972					2,926,733		15,172				148	
1973					2,926,733		15,172				91	
1974					3,137,148		21,566				91	
1975					3,425,000		29,915				205	
1976											406	
1977												
1978												
1979												

1 Converted to short tons at 60 lb per bushel.
2 Converted from short tons at 60 lb per bushel.
3 Nil.

Note: 1975 export shipments, 5,987; 1974 export shipments, 5,995; 1973 export shipments, 4,639; 1972 export shipments, 2,542 (not complete).

Source: U.S. Department of Agriculture.

ESTIMATED FEDERAL, STATE, AND/OR PRIVATE SECTOR COSTS AND MAN-YEAR REQUIREMENTS FOR GRAIN INSPECTION ONLY UTILIZING VARIOUS ALTERNATIVE GRAIN INSPECTION SYSTEMS, EACH SYSTEM PROVIDING FOR DIFFERENT LEVELS OF INPUT/OUTPUT, AS INDICATED

[Dollar amounts in thousands]

Cost Items	(1)		(2)		(3)		(4)		(5)		(6)		(7)	
	Amount	Man-years	Amount	Man-years	Amount	Man-years	Amount	Man-years	Amount	Man-years	Amount	Man-years	Amount	Man-years
Original inspection system as of July 1975														
Present system as of Jan. 1, 1976, includes \$5,000,000 for increased supervision.														
Federal/State system—Federal export State/private inland—Federal inspections at export locations and private inland—Federal interim inspections at interior locations, (2) research on increased supervision at all interim original inspections, (3) research on standards, (4) international monitoring, (5) increased levels of supervision, (6) monitoring of grain firm records, (7) rotation of Federal personnel, and (8) investigation of conflict-of-interest.														
	13	7	14	7	17	11	18	11	37	21	22.0	15.0	22.0	15.0
Subtotal	\$595	20	\$620	21	\$735	28	\$754	29	\$1,339	58	\$943	37.0	\$943	37.0
2. Program operations:														
(a) Technical	13	2	16	2	15	3	18	4	25	7	34.0	8.0	34.0	8.0
(b) Nontechnical	2	7	2	7	3	7	4	7	7	7	8.0	8.0	8.0	8.0
Subtotal	405	15	480	18	463	18	556	22	714	32	1,103	42.0	1,103	42.0

I. Federal:

A. Washington level:

1. Program management:
 - (a) Managers
 - (b) Other

2. Program operations:

- (a) Technical
- (b) Nontechnical

B. Regional level:

1. Program operations:
 - (a) Technical
 - (b) Nontechnical

C. Field level:

1. Program operations:
 - (a) Technical
 - (b) Nontechnical

D. International level:

1. Program operations:
 - (a) Technical
 - (b) Nontechnical

E. Transition costs

F. Agency overhead and reserve

Source of funding:

- (a) Appropriated
- (b) Trust

II. State:

1. Program operations:

- (a) Technical
- (b) Nontechnical

See footnotes at end of table.

ESTIMATED FEDERAL, STATE, AND/OR PRIVATE SECTOR COSTS AND MAN-YEAR REQUIREMENTS FOR GRAIN INSPECTION ONLY UTILIZING VARIOUS ALTERNATIVE GRAIN INSPECTION SYSTEMS, EACH SYSTEM PROVIDING FOR DIFFERENT LEVELS OF INPUT/OUTPUT, AS INDICATED—Continued

(Dollar amounts in thousands)

Cost Items	(1)		(2)		(3)		(4)		(5)		(6)		(7)	
	Amount	Man-years												
Original inspection system as of July 1975														
Present system as of July 1975; includes \$5,000,000 for increased supervision.														
Foley bill (H.R. 9467); Basically a continuation of the current system as of January 1975. In addition, it provides for: Elimination of conflict-of-interest interim Federal original inspection, increased peaking, and inspection services for cause and other activities as of Dec. 1, 1975.														
Federal/State system—inspected by either Federal or State agencies at both export and inland locations; provides for (1) 5 regional offices, (2) international monitoring of exports and (3) a supervision system over Federal inspectors only.														
Federal export State/private inland—Federal inspections at export and private inland locations; provides for (1) 5 regional offices, (2) international monitoring of exports and (3) a supervision system over Federal inspectors only.														
Federal/State export—inspections at export and private inland locations; provides for (1) Federal interim inspections at interior locations, (2) research on standards, (3) international monitoring, (4) contracting activities, (5) increased levels of supervision, (6) monitoring of grain firm records, (7) rotation of Federal personnel, and (8) investigation of conflict-of-interest.														
Total private	\$20,000	1,600	\$20,500	1,600	\$20,500	1,600	\$41,287	2,868	\$60,865	3,199	\$14,222	1,110.0	\$15,029	1,173.0

III. Private:

- Program operations:
 - Technical
 - Nontechnical

IV. Total cost of system		35,708	3,069	40,608	3,300	39,822	3,269	\$41,287	2,868	\$60,865	3,199	64,419	3,835.5	52,676	3,605.5
V. Cost per bushel grain inspected (cents per bushel):															
(a) 9,500,000,000 bu		0.38		0.42		0.42		0.43		0.64		0.68		0.55	
(b) 10,500,000,000 bu		0.34		0.39		0.38		0.39		0.58		0.61		0.50	
Summation:															
1. Increased levels of supervision:															
(a) Export		No		XX		XX		XX		No		XX		XX	
(b) Inland		No		XX		XX		XX		No		XX		XX	
2. Interim Federal original inspection		No		No		X		X		No		X		X	
3. Standardization Res.		No		No		No		No		No		X		X	
4. International monitoring		No		No		No		X		X		X		X	
5. Investigation of conflict-of-interest		No		No		X		No		No		X		X	
6. Contracting activities		No		No		No		No		No		X		X	
7. Monitoring of grain firm records		No		No		No		No		No		X		X	
8. Rotation of Federal personnel		No		No		No		No		No		X		X	
9. Regional office system		No		No		No		X		X		X		No	

¹ \$545,000 and 24 man-years for original inspections on interim basis over the Aug. 15, 1975, Foley bill. Includes \$5,000,000 in appropriations with corresponding reduction in trust funds.

² Assumes 25 States will assume inspection responsibilities compared to 23 as of July 1975. Federal inspection for remainder.

³ Federal inspection activity at export locations in States of: Illinois, Louisiana, Michigan, Mississippi, New York, Ohio, Pennsylvania, Texas.
Source: U.S. Department of Agriculture.

ESTIMATED FEDERAL, STATE, AND/OR PRIVATE SECTOR COSTS AND MAN-YEAR REQUIREMENTS FOR THE SUPERVISION OF GRAIN WEIGHING AT EXPORT ELEVATORS USING VARIOUS ALTERNATIVE SYSTEMS—Continued

APPENDIX G

ESTIMATED FEDERAL, STATE, AND/OR PRIVATE SECTOR COSTS AND MAN-YEAR REQUIREMENTS FOR THE SUPERVISION OF GRAIN WEIGHING AT EXPORT ELEVATORS USING VARIOUS ALTERNATIVE SYSTEMS

[Each supervisory grain weighing system provides different input and service levels for Federal, State, and/or private agency]

CY 1975 grain volume (thousand bushels)	Number of elevators	Port areas	Option No. 1—Present system (Jan. 1, 1976): Only State/private sector involved in supervisory weighing activity—no Federal supervision	
			State and private agencies Man-years	Charges for weighing services
877,672	9	Port area—Atlantic: North and South.....	40	\$710,160
2,969,968	13	Port area—Gulf:		
1,813,646	11	Mississippi River—East Gulf.....	87	1,544,598
		Texas Gulf.....	56	994,224
801,920	10	Port area—Pacific:		
130,802	9	Northwest coast.....	67	1,189,518
		California coast.....	12	213,048
186,038	11	Port area—Lakes:		
453,038	15	Chicago.....	8	142,032
330,112	5	Duluth-Superior.....	15	266,310
		Toledo.....	15	266,310
7,563,196	83	Subtotal.....	300	5,326,200
		State and private overhead.....		532,565
		State and private total.....	300	5,858,765
		Transition costs.....		
		Management—Washington level.....		
		Agency overhead subtotal.....		
		Federal total.....		
		Source of Federal funding:		
		(a) Appropriated.....		
		(b) Trust.....		
		Total cost of system.....	300	5,858,765
		Cost per 1,000 bu.....		\$0.80

(104)

CY 1975 grain volume (thousand bushels)	No. of elev.	Port areas	Option No 2—Combined Federal/State/private system: Upgrade present system by: (a) increasing the degree of State/private supervisory weighing activity; and (b) instituting a minimum degree of Federal supervisor.			
			State and private agencies Man-years	Federal oversight Man-years		
877,672	9	Port area—Atlantic: North and South.....	95	\$1,710,000	2	\$45,537
2,969,968	13	Port area—Gulf:				
1,813,646	11	Mississippi River—East Gulf.....	160	2,880,000	8	163,387
		Texas Gulf.....	160	2,880,000	7	159,935
801,920	10	Port area—Pacific:				
130,802	9	Northwest coast.....	114	2,052,000	6	125,296
		California coast.....	49	882,000	2	43,685
186,038	11	Port area—Lakes:				
453,038	15	Chicago.....	88	1,584,000	6	122,533
330,112	5	Duluth-Superior.....	112	2,016,000	5	92,837
7,563,196	83	Toledo.....	63	1,134,000	1	22,114
		Subtotal.....	841	15,138,000	37	775,324
		State and private overhead.....		1,513,800		
		State and private total.....	841	16,651,800		
		Transition costs.....				74,644
		Management—Washington level.....				9
		Agency overhead subtotal.....				6
		Federal total.....				52
		Source of Federal funding:				
		(a) Appropriated.....				169,904
		(b) Trust.....				1,081,042
		Total cost of system.....	893	17,902,746		
		Cost per 1,000 bu.....		\$2.40		

ESTIMATED FEDERAL, STATE AND/OR PRIVATE SECTOR COSTS AND MAN-YEAR REQUIREMENTS FOR THE SUPERVISION OF GRAIN WEIGHING AT EXPORT ELEVATORS USING VARIOUS ALTERNATIVE SYSTEMS—Continued

Option No. 3—Combined Federal/State system: Upgrade the present system by: (a) increasing the degree of State supervisory weighing activity in States which have a supervisory weighing program; (b) terminating the private agency supervisory weighing activities; (c) instituting Federal supervisory weighing activity in States which do not have a supervisory weighing program; and (d) instituting a minimum degree of Federal supervision.

CY 1975 grain volume (thousand bushels)	No. of elevators	Port areas	State agency		Federal weight supervision		Federal oversight	
			Man-years	State agency costs	Man-years	Federal weighing costs	Man-years	Federal supervisory costs
877,672	9	Port area—Atlantic: North and South	39	\$624,000	56	\$1,002,960	7	\$136,388
2,969,968	13	Port area—Gulf: Mississippi River—East	26	416,000	134	2,399,940	7	136,388
1,813,646	11	Gulf Texas Gulf			160	2,865,600		
801,920	10	Port area—Pacific: Northwest coast	114	1,658,130	49	877,590	9	175,356
130,802	9	California coast						
186,038	11	Port area—Lakes: Chicago	14	267,904	74	1,325,340	8	155,872
433,038	15	Duluth-Superior	60	1,148,160	52	931,320		
330,112	5	Toledo			63	1,128,330		
7,563,196	83	Subtotal	253	4,114,194	588	10,531,080	31	604,004
		State and private overhead		537,206				
		State and private total	253	4,651,400				
		Transition costs						55,710
		Management—Washington level					8	156,592
		Agency overhead subtotal					56	1,257,312
		Federal total			683	12,604,698		
		Source of Federal funding:						
		(a) Appropriated						1,257,312
		(b) Trust						11,347,386
III		Total cost of system			936	\$17,256,098		
IV		Cost per 1,000 bu						\$2.30

ESTIMATED FEDERAL, STATE AND/OR PRIVATE SECTOR COSTS AND MAN-YEAR REQUIREMENTS FOR THE SUPERVISION OF GRAIN WEIGHING AT EXPORT ELEVATORS USING VARIOUS ALTERNATIVE SYSTEMS—Continued

Option No. 4—Combined Federal/State system: Upgrade the present system by: (a) providing for an all State level supervisory weighing system; (b) terminating private agency supervisory weighing activities; and (c) instituting a minimum degree of Federal supervision.

CY 1975 grain volume (thousand bushels)	No. of elevators	Port areas	State agency		Federal oversight	
			Man-years	State agency costs	Man-years	Federal supervisory costs
877,672	9	Port area—Atlantic: North and South	95	\$1,589,065	2	\$45,537
2,969,968	13	Port area—Gulf: Mississippi River—East Gulf	160	2,676,320	8	163,387
1,813,646	11	Texas Gulf	160	2,676,320	7	159,935
801,920	10	Port area—Pacific: Northwest coast	114	1,906,878	6	125,296
130,802	9	California coast	49	819,623	2	43,685
186,038	11	Port area—Lakes: Chicago	88	1,471,976	6	122,533
433,038	15	Duluth-Superior	112	1,873,424	5	92,837
330,112	5	Toledo	63	1,053,801	1	22,114
7,563,196	83	Subtotal	841	14,067,407	37	775,324
		State and private overhead		1,406,993		
		State and private total	841	15,474,400		
I		Transition costs				74,644
		Management—Washington level			9	231,074
		Agency overhead subtotal			6	169,904
II		Federal total			52	1,250,946
		Source of Federal funding:				
		(a) Appropriated				169,904
		(b) Trust				1,081,042
III		Total cost of system		893	\$16,725,346	
IV		Cost per 1,000 bu				\$2.20

ESTIMATED FEDERAL, STATE, AND/OR PRIVATE SECTOR COSTS AND MAN-YEAR REQUIREMENTS FOR THE SUPERVISION OF GRAIN WEIGHING AT EXPORT ELEVATORS USING VARIOUS ALTERNATIVE SYSTEMS—Continued

CY 1975 grain volume (thousand bushels)	No. of elevators	Port areas	All Federal	
			Man-years	Total Federal costs
877, 672	9	Port area—Atlantic: North and South.....	102	\$1, 724, 820
2, 969, 968	13	Port area—Gulf:		
1, 813, 646	11	Mississippi River—East Gulf.....	327	5, 529, 570
		Texas Gulf.....		
		Port area—Pacific:		
801, 920	10	Northwest coast.....	172	2, 908, 520
130, 802	9	California coast.....		
		Port area—Lakes:		
186, 038	11	Chicago.....		
453, 038	15	Duluth-Superior.....	271	4, 582, 610
330, 112	5	Toledo.....		
7, 563, 196	83	Subtotal.....	872	14, 745, 520
		State and private overhead.....		
		State and private total.....		
		Transition costs.....		78, 480
		Management—Washington level.....	9	218, 328
		Agency overhead subtotal.....	79	1, 671, 370
		Federal total.....	960	16, 713, 698
		Source of Federal funding:		
		(a) Appropriated.....		1, 671, 370
		(b) Trust.....		15, 042, 328
		Total cost of system.....	960	16, 713, 698
		Cost per 1,000 bu.....		\$2.20

NOTES

17 States have export facilities: Pennsylvania, New York, Indiana, Virginia, South Carolina, Louisiana, Texas, Alabama, Mississippi, Illinois, Wisconsin, Michigan, Ohio, Minnesota, California, and Oregon.

7 States have supervisory weighing agencies: Virginia, South Carolina, Alabama, Mississippi, Washington, Oregon and Wisconsin.

Private supervisory weighing agencies operate in 10 States: Pennsylvania, New York, Indiana, Louisiana, Texas, Illinois, Michigan, Ohio, Minnesota, and California.

Man-year costs for all options are based on the nature of operations at the export elevators involved as related to their CY, 1975 volume of grain.

State/private agency overhead costs in each applicable option were estimated at 10 percent.

In Option No. 1 an average cost per man-year of \$17,754 for State and private agencies was estimated based on the average charge for 1,000 bu weighed at each port area.

In Option No. 2 an average cost per man-year of \$18,000 for State and private agencies was estimated based on the salaries currently being paid by several of the State/private agencies and upgrading the supervisory weighing activity from approximately 25 percent to 100 percent.

In Option Nos. 2, 3, and 4 Federal oversight supervision costs were estimated based on an average cost per man-year of \$19,484—the requirements of a GS-9 journeyman level.

In Option No. 3 man-year costs for State agency activities were estimated for each port area based on current salaries being paid by several States which currently have supervisory weighing programs. Staffing patterns were adjusted to provide a 100-percent level of supervisory weighing by the State agencies. The range of man-year costs was from \$14,545 in the Pacific area to \$19,136 on the Lakes.

In Option No. 3 Federal weighing supervisory costs were estimated based on an average cost per man-year of \$17,910. The requirements of a GS-7 journeyman level constitutes the majority of the weighing supervisory staff costs at each port area. Staffing patterns were based on projected workloads.

In Option No. 4 man-year costs for State agency activity were estimated at \$16,727 based on current State agency salaries being paid at 3 of the port areas.

In Option No. 5 full Federal weighing supervision costs were estimated based on an average cost per man-year of \$16,910. The requirements of the GS-7 journeyman level constitutes the majority of the staff costs at each port area.

In Option Nos. 2, 3 and 4 supervisory weighing costs of State/private or State only activities will be recovered by user fees charged to the export port elevators.

In Option Nos. 2, 3, 4, and 5 Federal direct supervisory and administrative costs at below the branch level will be recovered by user fees charged to the export port elevators. Federal management costs at branch level and above will be covered by appropriated funds.

In Option Nos. 3 and 5 where direct Federal supervision of weighing is involved, the journeyman level was projected at GS-7. Since the average journeyman level for field position in AMS is at GS-9, it may be necessary to restructure the position to attract suitably responsible people. In that event estimated costs would increase by approximately \$1,100,000 for Option No. 3 and by \$2,400,000 for Option No. 5.

Source: U.S. Department of Agriculture.

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To amend the United States Grain Standards Act to improve the grain inspection and weighing system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Grain Standards Act of 1976".

DECLARATION OF POLICY

SEC. 2. The United States Grain Standards Act (39 Stat. 482-485, as amended; 7 U.S.C. 71, 74-79, 84-87, and 87a-87h) is amended by amending section 2 (7 U.S.C. 74) as follows:

(a) by striking out in the second sentence the word "and" immediately before "to provide" and by inserting in such sentence immediately before the semicolon the following: ", and to regulate the weighing and the certification of the weight of grain shipped in interstate or foreign commerce in the manner hereinafter provided";

(b) by inserting immediately following the word "orderly" in the second sentence the words "and timely"; and

(c) by adding a new sentence at the end thereof to read as follows: "It is hereby found that all grain and other articles and transactions in grain regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce and that regulation thereof as provided in this Act is necessary to prevent or eliminate burdens on such commerce and to regulate effectively such commerce."

DEFINITIONS

SEC. 3. Section 3 of the United States Grain Standards Act, as amended (7 U.S.C. 75), is amended as follows:

(a) Subsection (i) is amended to read as follows:

"(i) The term 'official inspection' means the determination (by original inspection, and when requested, reinspection and appeal inspection) and the certification, by official inspection personnel of the kind, class, quality, or condition of grain, under standards provided for in this Act, 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, upon request of the interested party applying for inspection, the quantity of sacks of grain, or other facts relating to grain under other criteria approved by the Administrator under this Act (the term 'officially inspected' shall be construed accordingly);"

(b) Subsection (j) is amended to read as follows:

"(j) The term 'official inspection personnel' means persons licensed or otherwise authorized by the Administrator pursuant to section 8 of this Act 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;"

(c) Subsection (k) is amended to read as follows:

“(k) The term ‘official mark’ means any symbol prescribed by regulations of the Administrator to show the official determination of official inspection or official weighing;”.

(d) Subsection (l) defining the term “official grade designation” is amended by inserting immediately after the word “standards”, the following: “relating to kind, class, quality, and condition of grain,”.

(e) Subsection (m) is amended to read as follows:

“(m) The term ‘official agency’ means any State or local governmental agency, or any person, designated by the Administrator pursuant to subsection (f) of section 7 of this Act for the conduct of official inspection (other than appeal inspection), or subsection (b) of section 7A of this Act for the conduct of supervision of weighing;”.

(f) Subsection (n) is amended by striking out the word “Secretary” and inserting in lieu thereof the word “Administrator”.

(g) Subsection (u) is amended to read as follows:

“(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 Administrator under this Act;”.

(h) Section 3 is further amended by adding at the end thereof new subsections (v), (w), (x), (y), (z), and (aa) as follows:

“(v) The term ‘export elevator’ means any grain elevator, warehouse, or other storage or handling facility in the United States as determined by the Administrator, 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 Administrator, 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 in this Act, 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 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;

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

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

FEDERAL GRAIN INSPECTION SERVICE

SEC. 4. The United States Grain Standards Act, as amended, is amended by adding a new section 3A as follows:

“FEDERAL GRAIN INSPECTION SERVICE

“SEC. 3A. There is created and established in the Department of Agriculture a Service to be known as the Federal Grain Inspection

Service, all the powers of which shall be exercised by an Administrator, under the general direction and supervision of the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall be responsible for the administration of this Act and for the establishment of policies, guidelines, and regulations by which the Service is to carry out the provisions of this Act.”

STANDARDS

SEC. 5. Section 4 of the United States Grain Standards Act, as amended (7 U.S.C. 76), is amended as follows:

(a) Subsection (a) is amended to read as follows:

“(a) The Administrator 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, grain sorghum, soybeans mixed grain, and such other grains as in his judgment the usages of the trade may warrant and permit, and (2) standards for accurate weighing and weight certification procedures and controls, including safeguards over equipment calibration and maintenance for grain shipped in interstate or foreign commerce; and the Administrator is authorized to amend or revoke such standards whenever the necessities of the trade may require.”

(b) Subsection (b) is amended by striking out the word “Secretary” wherever it appears therein and inserting in lieu thereof the word “Administrator”.

OFFICIAL INSPECTION AND WEIGHING REQUIREMENTS

SEC. 6. Section 5 of the United States Grain Standards Act, as amended (7 U.S.C. 77), is amended to read as follows:

“OFFICIAL INSPECTION AND WEIGHING REQUIREMENTS

“SEC. 5. (a) Whenever standards are effective under section 4 of this Act 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 (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) in accordance with such standards, 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 his agent, to the consignee with the bill of lading or other shipping documents covering the shipment: *Provided*, That the Administrator may waive the foregoing requirement in emergency or other circumstances which would not impair the objectives of this Act: *Provided further*, That the Administrator 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 Administrator prior to shipment;

“(2) except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this Act, 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; and

“(3) except as otherwise authorized by the Administrator, 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) All official inspection and official weighing, whether performed by authorized Service employees or any other person licensed under section 8 of this Act, shall be supervised by representatives of the Administrator, in accordance with such regulations as he may provide.”.

REQUIRED USE OF OFFICIAL GRADE DESIGNATIONS

SEC. 7. Section 6(a) of the United States Grain Standards Act, as amended (7 U.S.C. 78), is amended by inserting immediately after the words “Whenever standards”, the following: “relating to kind, class, quality, or condition of grain”.

OFFICIAL INSPECTION AUTHORITY

SEC. 8. (a) Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 79), is amended as follows:

(1) Subsections (a), (b), and (c) are amended by striking out the word “Secretary” wherever it appears and inserting in lieu thereof the word “Administrator”.

(2) Subsection (b) is further amended by striking out the words “or with respect to United States grain in Canadian ports”.

(3) Subsection (c) is further amended (A) by striking out the words “Department of Agriculture” and inserting in lieu thereof the word “Service”; (B) by inserting the words “and surrender” immediately after the word “cancellation”; and (C) by adding immediately before the period at the end of the first sentence the following: “; and the use of standard forms for official certificates”.

(4) Subsection (d) is amended by striking out the word “Certificates” and inserting in lieu thereof the words “Official certificates setting out the results of official inspection”.

(5) Section 7 is further amended by changing subsections (e) and (f) and adding new subsections (g), (h), (i), and (j) to read, respectively, as follows:

“(e) (1) Except as otherwise provided in paragraph (2) of this subsection, the Administrator shall cause official inspection at export port locations, for all grain required or authorized to be inspected by this Act, to be performed by official inspection personnel employed by the Service or other persons under contract with the Service as provided in section 8 of this Act.

“(2) If the Administrator determines pursuant to paragraph (3) of this subsection that a State agency which was performing official inspection at an export port location under this Act on July 1, 1976, is qualified to perform official inspection and meets the criteria in subsection (f) (1) (A) of this section, the Administrator 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 he may prescribe, and any such official inspection shall continue to be the direct responsibility of the Administrator. Any such delegation may be revoked by the Administrator, at his discretion, at any time upon notice to the State agency without opportunity for a hearing. The Administrator 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 Administrator determines will best meet the objectives of this Act.

“(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 Administrator 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 Administrator 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 General Accounting Office.

“(f) (1) With respect to official inspections other than at export port locations, the Administrator 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 Administrator determines official inspection is needed, if—

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

“(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 Administrator under section 8(g) of this Act;

“(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 Act 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 or other agricultural programs operated by the State or local governmental agency;

“(vii) and any related entities do not have a conflict of interest prohibited by section 11 of this Act;

“(viii) will maintain complete and accurate records of its organization, staffing, official activities, and fiscal operations, and such other records as the Administrator 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 Act and the regulations and instructions thereunder; and

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

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

“(2) Not more than one official agency for carrying out the provisions of this Act shall be operative at one time for any geographic area as determined by the Administrator to effectuate the objectives stated in section 2 of this Act, 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. No official agency or State delegated authority pursuant to subsection (e) (2) of this section shall officially inspect under this Act 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 Administrator at the time such sample is drawn. No State or local governmental agency or person shall provide any official inspection for the purposes of this Act except pursuant to an unsuspended and unrevoked delegation of authority or designation by the Administrator, as provided in this section, or as provided in section 8(a) of this Act.

“(g) (1) Designations of official agencies shall terminate at such time as specified by the Administrator but not later than triennially and may be renewed in accordance with the criteria and procedure prescribed in subsections (e) and (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 Administrator determines that the amendment will be consistent with the provisions and objectives of this Act; and a designation will be cancelled upon request by the official agency with ninety days written notice to the Administrator. A fee as prescribed by regulations of the Administrator shall be paid by the official agency to the Administrator for each such amendment, to cover the costs incurred by the Service in connection therewith, and it shall be deposited in the fund created in subsection (j) of this section.

“(3) The Administrator may revoke a designation of an official agency whenever, after opportunity for hearing is afforded the agency, the Administrator 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 Act for the performance of official functions, or otherwise has not complied with any provision of this Act or any regulation prescribed or instruction issued to such agency under this Act, or has been convicted of any violation of other Federal law involving the handling or official inspection of grain: *Provided*, That the Administrator may, without first affording the official agency an opportunity

for a hearing, suspend any designation pending final determination of the proceeding whenever the Administrator 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 Act. The Administrator shall afford any such agency an opportunity for a hearing within thirty days after temporarily suspending such designation.

“(h) If the Administrator 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 Administrator determines such inspection is needed to effectuate the objectives stated in section 2 of this Act, 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 Service, and other persons licensed by the Administrator to perform official inspection functions, as provided in section 8 of this Act, until such time as the service can be provided on a regular basis by an official agency.

“(i) The Administrator is authorized to cause official inspection under this Act to be made, as provided in subsection (a) of section 5 of this Act, in Canadian ports of United States export grain transhipped through Canadian ports, and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such inspection.

“(j) (1) The Administrator shall, under such regulations as he may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service 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 Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs directly related to such official inspection of grain incurred outside the Service's Washington office. 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 Service incident to providing services under this Act.

“(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 Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service (outside of the Washington office) relating to direct supervision of official agency personnel and direct supervision by Service personnel of its field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator 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 Administrator, of the fee currently due plus interest and

any further expenses incurred by the Service because of such termination.”.

(b) (1) In order to provide information for use by the Congress in evaluating the needs of the grain inspection and weighing system at points in the United States other than at export port locations; the Administrator of the Federal Grain Inspection Service, the Director of the Office of Investigation of the United States 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 Comptroller General of the United States shall severally conduct investigations into and study grain inspection and weighing in the interior of the United States. The studies shall address, but are not limited to, the tasks of (A) determining the reliability and effectiveness of present official inspection and weighing procedures in the interior of the United States, and (B) evaluating the operating procedures and management practices of agencies providing grain inspection and weighing services in the interior of the United States, as they relate to the integrity and accuracy of the services.

(2) The Director of the Office of Investigation specifically is directed to study the extent of any irregularities or problem areas under the present inspection and weighing systems and conflicts of interest rules and develop factual summaries of evidence disclosed in the Director's investigations into violations of the United States Grain Standards Act, the grain weighing provisions of the United States Warehouse Act, and related provisions of title 18 of the United States Code: *Provided*, That the Director shall not submit such summary with respect to any criminal investigation which is pending at the time the report is due.

(3) The Administrator of the Federal Grain Inspection Service shall make findings with respect to present grain inspection and weighing agencies at each inland terminal marketing area of the United States at which over fifty million bushels of grain are inspected in an average year, such findings to include (A) results of interviews with shippers who ship grain to and consignees who receive grain from such terminal marketing areas, and (B) a thorough analysis of inspection and weighing error rates of such agencies, based on existing documentation and the sampling during the investigation of a representative number of randomly selected lots of grain shipped to and from such terminal marketing areas.

(4) The Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service shall complete their investigations and study and shall submit their reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate and the Comptroller General not later than eighteen months after the effective date of this Act.

(5) The Comptroller General, in making his investigations and study, shall (A) assess the present grain inspection and weighing system in the interior of the United States, and (B) evaluate the reports submitted under this subsection by the Director of the Office of Investigation and the Administrator of the Federal Grain Inspection Service. The Comptroller General shall submit a report setting forth the findings of such study and evaluation and his recommendations for changes in the United States Grain Standards Act to such Committees not later than two years after the effective date of this Act.

WEIGHING AND EQUIPMENT TESTING

SEC. 9. The United States Grain Standards Act, as amended, is amended by adding new sections 7A and 7B as follows:

“WEIGHING AUTHORITY

“SEC. 7A. (a) The Administrator shall cause official weighing under standards provided for in section 4 of this Act to be made of all grain required to be officially weighed as provided in section 5 of this Act, in accordance with such regulations as the Administrator may prescribe.

“(b) The Administrator is authorized to cause supervision of weighing under standards provided in section 4 of this Act to be performed at any grain elevator, warehouse, or other storage or handling facility located other than at export port locations at which official inspection is provided pursuant to the provisions of this Act, in such manner as the Administrator deems appropriate and under such regulations as the Administrator may provide.

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

“(2) With respect to official weighing or supervision of weighing for any location at which official inspection is provided other than by the Service, the Administrator is authorized, with respect to export port locations, to delegate authority to perform official 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 supervision of weighing, if such agency or person qualifies for a delegation of authority or designation under section 7 of this Act, 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 Administrator determines that such agency or person is not qualified to perform such weighing services, then (A) at export elevators at export port locations official weighing shall be performed by official inspection personnel employed by the Service, and (B) at any other location, the Administrator is authorized to cause supervision of weighing to be performed by official inspection personnel employed by the Service or designate any State or local governmental agency, or any person to perform 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 7 of this Act, except that where the term ‘official inspection’ is used in such section it shall be deemed to refer to ‘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 7 of this Act.

“(d) The Administrator is authorized to cause official weighing under this Act to be made, as provided in subsection (a) of section 5 of this Act, in Canadian ports of United States export grain transhipped through Canada; and pursuant thereto the Secretary is authorized to enter into an agreement with the Canadian Government for such official weighing.

“(e) The Administrator is further authorized to cause official weighing or supervision of weighing under standards provided for in section 4 of this Act 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 he may prescribe. Such weighing service shall not be provided for periods of less than one year; and the fees therefor shall be set separately from those fees provided for in subsection (1) of this section and shall be reasonable, nondiscriminatory, and equal, as nearly as possible, to the cost of providing such services.

“(f) No official weighing or supervision of weighing shall be provided for the purposes of this Act 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 Administrator 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 Administrator; (2) will employ only competent persons with a reputation for honesty and integrity to operate the scales and to handle grain in connection with weighing of the grain, in accordance with this Act; (3) when weighing is to be done by employees of the facility, will require employees to operate the scales in accordance with the regulations of the Administrator 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 Administrator; (4) will provide all assistance needed by the Administrator for making any inspection or examination and carrying out other functions at the facility pursuant to this Act; and (5) will comply with all other requirements of this Act and the regulations hereunder.

“(g) Official certificates setting out the results of official weighing, issued and not cancelled under this Act, 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) 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) No State or person other than an authorized employee of the Service shall perform official weighing or supervision of weighing for the purposes of this Act except in accordance with the provisions of an unsuspended and unrevoked delegation of authority or designation by the Administrator as provided in this section.

“(j) 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) The representatives of the Administrator 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.

“(1) (1) The Administrator shall, under such regulations as he may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service 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 Service (outside of the Washington office) incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section (7) (j) of this Act.

“(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 Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service (outside of the Washington office) relating to direct supervision of the agency personnel and direct supervision by Service personnel of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under section 7 (g) (3), 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 7(j) of this Act. 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 Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination.

“TESTING OF EQUIPMENT

“SEC. 7B. (a) The Administrator shall provide for the testing of all equipment used in the sampling, grading, inspection, and 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 Act, to be made on a random and periodic basis, but at least annually and under such regulations as the Administrator may prescribe, as he deems necessary to assure the accuracy and integrity of such equipment.

“(b) The Administrator is authorized to cause such testing provided for in subsection (a) to be performed (1) by personnel employed by the Service, or (2) by States, political subdivisions thereof, or persons under the supervision of the Administrator, under such regulations as the Administrator may prescribe.

“(c) Notwithstanding any other provision of law, no person shall use any such equipment not approved by the Administrator.”

LICENSES AND AUTHORIZATIONS

SEC. 10. Section 8 of the United States Grain Standards Act, as amended (7 U.S.C. 84), is amended to read as follows:

“LICENSES AND AUTHORIZATIONS

“SEC. 8. (a) The Administrator is authorized (1) to issue a license to any individual upon presentation to him of satisfactory evidence that such individual is competent, and is employed by an official agency or a State agency delegated authority under section 7 or 7A of this Act, to perform all or specified functions involved in original inspec-

tion or reinspection functions involved in official inspection, or in the official weighing or the supervision of weighing of grain in the United States; (2) to authorize any competent employee of the Service 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 of grain, (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 Act; (3) to contract with any person to perform specified sampling and laboratory testing 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 Act. No person shall perform any official inspection or weighing function for purposes of this Act unless such person holds an unsuspended and unrevoked license or authorization from the Administrator under this Act.

“(b) All classes of licenses issued under this Act shall terminate triennially on a date or dates to be fixed by regulation of the Administrator: *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 Act or to operate independently under the terms of a contract for the conduct of any functions involved in official inspection under this Act: *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 Act or resumes operation under such a contract within one year of the suspension date and the license has not expired in the interim.

“(c) The Administrator may require such examinations and reexaminations as he may deem warranted to determine the competence of any applicants for licenses, licensees, or employees of the Service, to perform any official inspection or weighing function under this Act.

“(d) Persons employed by an official agency (including persons employed by a State agency under a delegation of authority pursuant to this Act) and persons performing official inspection functions under contract with the Service 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 Act or by the rules and regulations of the Administrator, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18 of the United States Code, 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 of the United States Code.

“(e) The Administrator may hire (without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on the date of enactment of the United States

Grain Standards Act of 1976)) to perform functions of official inspection under the United States Grain Standards Act and as personnel to perform supervisory weighing or official weighing functions any individual who, on the date of enactment of the United States Grain Standards Act of 1976, was performing similar functions: *Provided*, That the Administrator 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.

“(f) The Administrator shall provide for the periodic rotation of supervisory personnel and official inspection personnel employed by the Service as he deems necessary to preserve the integrity of the official inspection system provided by this Act.

“(g) The Administrator 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 Service, all State agencies under delegation of authority pursuant to this Act, and all official agencies and all persons licensed or authorized to perform functions under this Act: *Provided*, That persons licensed or authorized on the date of enactment of the United States Grain Standards Act of 1976 to perform any official function under this Act, shall be exempted from the uniform recruiting and training provisions of this subsection and regulations or standards issued pursuant thereto if the Administrator 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 Administrator deems necessary.”.

REFUSAL OF RENEWAL, OR SUSPENSION OR REVOCATION OF LICENSES

SEC. 11. Section 9 of the United States Grain Standards Act, as amended (7 U.S.C. 85), is amended as follows:

(a) by striking out the word “Secretary” wherever it appears and inserting in lieu thereof the word “Administrator”;

(b) by inserting after the word “inspected” wherever it appears the words “or weighed or supervised the weighing of”; and

(c) by adding at the end thereof a new sentence as follows: “The Administrator may summarily revoke any license whenever the licensee has been convicted of any offense prohibited by section 13 of this Act or convicted of any offense proscribed by title 18 of the United States Code, with respect to performance of functions under this Act.”.

REFUSAL OF INSPECTION AND WEIGHING SERVICES AND CIVIL PENALTIES

SEC. 12. Section 10 of the United States Grain Standards Act, as amended (7 U.S.C. 86), is amended as follows:

(a) The title is changed to read “REFUSAL OF INSPECTION AND WEIGHING SERVICES AND CIVIL PENALTIES”.

(b) Subsection (a) is amended to read as follows:

“(a) The Administrator may (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) refuse to provide official inspection or the services related to weighing otherwise available under this Act with respect to any grain offered for such services, or owned, wholly or in part, by any person if he 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 13 of this Act 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.”

(c) Subsection (c) is amended and new subsections (d) and (e) are added, to read, respectively, as follows:

“(c) In addition to, or in lieu of, penalties provided under section 14 of this Act, or in addition to, or in lieu of, refusal of official inspection or services related to weighing in accordance with this section, the Administrator may assess against any person who has knowingly committed any violation of section 13 of this Act 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 Administrator determines is appropriate to effectuate the objectives stated in section 2 of this Act.

“(d) 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 of the United States Code: *Provided*, That the Administrator may, without first affording the person a hearing, refuse official inspection or services related to weighing temporarily pending final determination whenever the Administrator has reason to believe there is cause for refusal of inspection or services related to weighing and considers such action to be in the best interest of the official inspection system under this Act. The Administrator 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) 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 Administrator 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 17 of this Act 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.”

PROHIBITION ON CERTAIN CONFLICTS OF INTEREST

SEC. 13. Section 11 of the United States Grain Standards Act, as amended (7 U.S.C. 87), is amended—

(a) by striking out the word “Secretary” wherever it appears and inserting in lieu thereof the word “Administrator”;

(b) by striking out the word "inspection" immediately following the phrase "to perform any official"; and

(c) by designating the provisions thereof as subsection (a) and adding new subsections (b) and (c) as follows:

"(b)(1) No official agency or a State agency delegated authority under this Act, 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 he 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 7A and each State or local agency or other person designated by the Administrator under such section to perform 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 a State or local governmental agency is designated as an official agency, the Administrator 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 Administrator 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 supervision of weighing except that for purposes of supervision of weighing only, he may also designate any other person, if he determines that any conflict of interest which may exist between the agency or person or any member, 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 Admin-

istrator 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 Administrator 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 and Forestry of the Senate, detailing the factual bases for such determination.

“(c) The provisions of this section shall not prevent an official agency from engaging in the business of weighing grain.”.

RECORDS

SEC. 14. Section 12 of the United States Grain Standards Act, as amended (7 U.S.C. 87a), is amended by amending subsections (a), (b), and (c) and adding a new subsection (d) to read, respectively, as follows:

“(a) Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this Act shall maintain such samples of officially inspected grain and such other records as the Administrator may by regulation prescribe for the purpose of administration and enforcement of this Act.

“(b) Every official agency and every person licensed to perform any official inspection or official weighing or supervision of weighing function under this Act 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 Administrator, 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 Administrator to be maintained for not more than three years in addition to the five-year period whenever in his judgment the retention of such records for the longer period is necessary for the effective administration and enforcement of this Act.

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

“(d) 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, 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, and permit any authorized representative of the Secretary or the Administrator, 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.”.

PROHIBITED ACTS

SEC. 15. Section 13 of the United States Grain Standards Act, as amended (7 U.S.C. 87b), is amended as follows:

(a) Subsection (a) is amended as follows:

(1) by striking out in paragraphs (1) and (2) thereof the word "inspection" wherever it appears and by striking out the word "Secretary" in paragraph (2) and inserting in lieu thereof the word "Administrator";

(2) by amending paragraph (3) thereof to read as follows:

"(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;"

(3) by amending paragraph (5) thereof to read as follows:

"(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;"

(4) by inserting in paragraphs (7) and (8) immediately after the word "personnel" the words "or personnel of agencies delegated authority or of agencies or other persons designated under this Act";

(5) by inserting in paragraphs (9) and (10) immediately after the words "official inspection" the words "or official weighing or supervision of weighing" and by inserting in paragraph (11) "7(f) (2), 7A, 7B(c)," after "section 5, 6"; and

(6) by striking the word "or" at the end of paragraph (10) striking the period at the end of subsection (a) and inserting a semicolon in lieu thereof, and adding new paragraphs (12) and (13) as follows:

"(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 testing equipment; or

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

(b) Subsection (b) is amended by inserting in paragraph (2) the words "or weighing" after the word "inspection".

PROTECTION OF SERVICE PERSONNEL

SEC. 16. Section 1114 of title 18 of the United States Code, as amended, is hereby amended by (a) striking the phrase "any employee of the Bureau of Animal Industry of the Department of Agriculture,"

and (b) by inserting immediately after the phrase "or of the Department of Labor" the words "or of the Department of Agriculture".

PENALTIES

SEC. 17. Section 14 of the United States Grain Standards Act, as amended (7 U.S.C. 87c), is amended to read as follows:

"CRIMINAL PENALTIES

"SEC. 14. (a) Any person who commits an offense prohibited by section 13 (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 of the United States Code relating to crimes and offenses against the United States) 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 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 Act shall be construed as requiring the Administrator to report minor violations of this Act for criminal prosecution whenever he believes that the public interest will be adequately served by a suitable written notice or warning, or to report any violation of this Act for prosecution when he believes that institution of a proceeding under section 10 of this Act will obtain compliance with this Act and he institutes such a proceeding.

"(c) Any officer or employee of the Department of Agriculture assigned to perform weighing functions under this Act 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 of the United States Code."

GENERAL AUTHORITIES

SEC. 18. Section 16 of the United States Grain Standards Act, as amended (7 U.S.C. 87e), is amended to read as follows:

"GENERAL AUTHORITIES

"SEC. 16. (a) The Administrator is authorized to conduct such investigations; hold such hearings; require such reports from any official agency, any State agency delegated authority under this Act, licensee, or other person; require by regulation as a condition for official inspection, among other things (1) that there be installed specified sampling and monitoring equipment in grain elevators, (2) that approval of the Administrator be obtained as to the condition of vessels and other carriers or receptacles for 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 Administrator. The Administrator is further authorized to prescribe such other rules, regulations, and instructions as he deems necessary to effectuate the purposes or provisions of this Act. Whether any certificate, other form, representation, designation, or other description is false, incorrect, or misleading

within the meaning of this Act shall be determined by tests made in accordance with such procedures as the Administrator may adopt to effectuate the objectives of this Act, if the relevant facts are determinable by such tests. Proceedings under section 9 of this Act 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 of the United States Code.

“(b) The Administrator is authorized to investigate reports or complaints of discrepancies and abuses in the official inspection and weighing of grain under this Act. The Administrator 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 Act, and (C) any complaint regarding the operation or administration of this Act or any official transaction with which this Act is concerned; and (2) taking appropriate action on the basis of the findings of any investigation of such complaints. The Administrator shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture 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.

“(c) The Administrator 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) 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 Act or any official transaction with which this Act is concerned, as the Director thereof deems necessary to assure the integrity of official inspection and weighing under this Act.

“(e) The Administrator 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) To assure the normal movement of grain at all inspection points in a timely manner consistent with the policy expressed in section 2 of this Act, the Administrator shall, notwithstanding any other provision of law, provide adequate personnel to meet the additional inspection and weighing requirements of this Act.”

ENFORCEMENT PROVISIONS

Sec. 19. Section 17 of the United States Grain Standards Act, as amended (7 U.S.C. 87f), is amended as follows:

(a) by striking out the word “Secretary” wherever it appears and inserting in lieu thereof the word “Administrator”;

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- (b) by inserting in subsection (a) the words "by the Administrator" immediately following the words "under investigation";
- (c) by inserting in subsection (e) the words "subsection (a) of" immediately before the words "section 14"; and
- (d) by striking out subsection (g).

RELATION TO STATE AND LOCAL LAWS; SEPARABILITY OF PROVISIONS

SEC. 20. Section 18 of the United States Grain Standards Act, as amended (7 U.S.C. 87g), is amended by striking out from the first sentence of subsection (a) the words "function under this Act by official inspection personnel" and inserting in lieu thereof the following: "or weighing function under this Act by official inspection personnel".

APPROPRIATIONS

SEC. 21. Section 19 of the United States Grain Standards Act, as amended (7 U.S.C. 87h), is amended to read as follows:

"APPROPRIATIONS

"SEC. 21. There are hereby authorized to be appropriated such sums as are necessary for research and development as provided in section 16 of this Act; monitoring in foreign ports grain officially inspected and officially weighed under this Act; development and issuance of rules, regulations, and instructions; improvement of official standards for grain, improvement of inspection and weighing procedures and equipment, and other activities authorized by section 4 of this Act; 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; the purchase or lease of any buildings, other facilities, or equipment necessary to carry out the provisions of this Act; and any other expenses necessary to carry out the provisions of this Act to the extent that financing is not obtained from the fees and sales of samples as provided for in sections 7, 7A, and 17A of this Act."

REGISTRATION AND REPORTING REQUIREMENTS

SEC. 22. The United States Grain Standards Act, as amended, is amended by adding new sections 17A and 17B as follows:

"REGISTRATION REQUIREMENTS

"SEC. 17A. (a) The Administrator 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 he 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) (1) All persons registered under this Act shall submit the following information to the Administrator:

“(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 Administrator deems necessary to carry out the purposes of this Act.

Persons required to register under this section shall also submit to the Administrator 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) 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) The Administrator 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), the person holding such certificate shall, within thirty days of the discovery of such change, notify the Administrator 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 he has registered with the Administrator as required by this Act and has an unsuspended and unrevoked certificate of registration.

“(d) The Administrator 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 of the United States Code, the Administrator shall determine that such person has violated any provision of this Act or of the regulations promulgated thereunder, or has been convicted of any violation involving the handling, weighing, or inspection of grain under title 18 of the United States Code.

“(e) The Administrator 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 Administrator in adminis-

tering the registration required by this section. Such fees shall be deposited in, and used as part of, the fund described in section 7(j) of this Act.

“REPORTING REQUIREMENTS

“SEC. 17B. (a) The Administrator shall submit a report to the committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate 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 regarding the effectiveness of the official inspection system under this Act for the prior fiscal year, with recommendations for any legislative changes necessary to accomplish the objectives stated in section 2 of this Act.

“(b) The Administrator shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture 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 Administrator that there is reasonable cause to believe that the grain delivery was in fact faulty, and (2) within thirty days after receipt by the Administrator or the Secretary of the cancellation of any contract for the export of more than one hundred thousand metric tons of grain.

“(c) On December 1 of each year, the Administrator shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of 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 Administrator.”

PURCHASE OR LEASE OF INSPECTION EQUIPMENT

SEC. 23. Notwithstanding the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) and section 302 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490), the Administrator of the Federal Grain Inspection Service is authorized to negotiate for and purchase or lease, from any person licensed or designated (on the date of enactment of this Act) to perform official inspection functions under the United States Grain Standards Act, at fair market value, any facilities or equipment which the Administrator determines to be necessary for the conduct of official inspection.

STUDIES OF GRAIN STANDARDS

SEC. 24. (a) In order to assure that producers, handlers, and transporters of grain are encouraged and rewarded for the production, maintenance, and delivery of high quality grain and grain of the type needed to meet the end-use requirements of domestic and foreign buyers, the Administrator of the Federal Grain Inspection Service shall conduct an investigation and make a study regarding the adequacy of the current grain standards established under the United States Grain Standards Act.

(b) To determine the items of concern to buyers, both foreign and domestic, and how sellers in the United States might best satisfy those needs, the Administrator may seek the advice of and may employ the services of representatives of the grain industry, land-grant colleges, and other members of the public (without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service).

(c) The study shall address specifically, but is not limited thereto, the tasks of determining (A) if standards may be developed that would reduce grading errors and remove, where possible, subjective human judgment from grading by increased utilization of mechanical, electrical, and chemical means of grading, (B) whether grain should be subclassed according to color or other factor not affecting the quality of the grain, (C) whether the protein factor should be included in the standards, and (D) whether broken grain should be grouped together with foreign material.

(d) On the basis of the results of such study, the Administrator, in accordance with section 4 of the United States Grain Standards Act, shall make such changes in the grain standards as he determines necessary and appropriate, and, not later than two years after the date of enactment of this Act, submit a report to the Congress setting forth the findings of such study and action taken by him as a result of the study.

TEMPORARY EXERCISE OF POWERS, DUTIES, AND AUTHORIZATIONS

SEC. 25. The powers, duties, and authorizations established by this Act for the Administrator of the Federal Grain Inspection Service shall in all instances be exercised by the Secretary of Agriculture of the United States during the period between the effective date of this Act and the appointment of the Administrator.

CONFORMING AMENDMENT

SEC. 26. Section 5316 of title 5 of the United States Code, as amended, is amended by adding at the end thereof a new paragraph to read as follows:

“(137) Administrator, Federal Grain Inspection Service, Department of Agriculture.”.

EFFECTIVE DATE

SEC. 27. This Act shall become effective thirty days after enactment hereof; and thereafter no State agency shall provide official inspection at an export port location or official weighing at an export elevator at an export port location without a delegation of authority and no agency or person shall provide official inspection service or supervision of weighing in any other area without a designation under the United States Grain Standards Act, as amended by this Act, except that any agency or person then providing such service in any area, who pays fees when due, in the same manner as prescribed in section 7 or 7A of the United States Grain Standards Act, as amended by this Act, may continue to operate in that area without a delegation or designation but shall be subject to all provisions of the United States Grain Standards Act and regulations thereunder in effect immediately prior to the effective date of this Act, until whichever of the following events occurs first:

(1) a delegation or designation of such agency or person to perform such services is granted or denied by the Administrator of the Federal Grain Inspection Service pursuant to the United States Grain Standards Act, as amended by this Act; or

(2) such agency or person, or two or more members or employees thereof, have been or are convicted of a violation of any provision of the United States Grain Standards Act in effect immediately prior to the effective date of this Act; or convicted of any offense proscribed by other Federal law involving the handling, weighing, or official inspection of grain;

(3) with respect to export port locations and export elevators located at export port locations, the expiration of a period determined by the Administrator of not more than eighteen months following the effective date hereof; or

(4) with respect to any other area, the expiration of a period as determined by the Administrator of not more than two years following the effective date hereof:

Provided, That the Administrator is authorized and directed to cause official inspection and official weighing of grain pursuant to the provisions of the United States Grain Standards Act, as amended by this Act, to be performed by authorized employees of the United States Department of Agriculture or the Service, to begin at any time immediately thereafter the date of enactment of this Act, at those export port locations and export elevators located at export port locations at which the Administrator determines that such performance by such authorized employees is necessary to effectuate the provisions of section 2 of the United States Grain Standards Act, as amended.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*