

Public Law 94-582
94th Congress

An Act

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

Oct. 21, 1976

[H.R. 12572]

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".

United States
Grain Standards
Act of 1976.
7 USC 71 note.

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

Post, p. 2870.

Post, p. 2875.

7 USC 75.

Establishment.
7 USC 75a.

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.”

Investigation.

(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—

Supra.

“(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;

Waiver.

“(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.”

Post, p. 2877.

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
delegation.

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;

Investigation.

Consultation,
review.

Designation.

Post, p. 2880.

“(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.

Ante, p. 2867.

“(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.

Post, p. 2877.
Termination.

“(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.

Fee.

“(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.

Revocation.

“(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

Suspension.

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.

Hearing.

“(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.

Ante, p. 2867.*Post*, p. 2877.

“(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.

Canadian Government, inspection agreement. *Ante*, p. 2869.

“(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.

Inspection fees, regulations.

Fund.

“(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

Fees.

Post, pp. 2879, 2884.

Termination.

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

Investigation and
study.
7 USC 79 note.

(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.

Study.

(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.

7 USC 71.

7 USC 241.

18 USC 1 *et seq.*

Findings.

(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.

Reports to
congressional
committees and
Comptroller
General.

(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.

Assessment,
evaluation.

(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.

Report to
congressional
committees.

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. Regulations. 7 USC 79a. Ante, p. 2869. Ante, p. 2869.

"(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. Supervision, regulations.

"(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. Authority delegation. Ante, p. 2870.

"(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. Canadian Government, weighing agreement. Ante, p. 2869.

Ante, p. 2869.

“(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.

Certificates,
evidence.

“(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.).

Access.

“(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.

Fees.

“(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.

Ante, p. 2870.
Fees.

Ante, p. 2870,
Post, pp. 2879,
2884.

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.

Regulations.
7 USC 79b.

“(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.

Regulations.

“(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-

Ante, pp. 2870,
2875.

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.

Termination,
regulation.

Suspension.

“(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.

Reinstatement.

Examinations.

“(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.

Personnel.

5 USC 101 *et seq.*

“(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.

7 USC 71.

“(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.

Personnel rotation.

“(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.”

Standards.

Exemption.

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.”

Post, p. 2883.
18 USC 1 et seq.

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.”.

Post, p. 2883.

(c) Subsection (c) is amended and new subsections (d) and (e) are added, to read, respectively, as follows:

Penalties.

Post, p. 2884.

“(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.

Ante, p. 2867.

Hearing.

“(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 expeditious manner.

Fund.

“(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.”.

7 USC 87f.

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.

Conflict of interest.

"(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.

Substantial stock holder.

"(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.

Ante, p. 2875.

"Use of official inspection service."

"(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-

Authority delegation.

Report to congressional committees.

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:

Regulation.

“(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.

Maintenance.

“(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.

Access.

“(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.

Audits.

“(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

Ante, p. 2883.

18 USC 1 *et seq.*

"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.

Ante, p. 2879.

"(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

Investigations,
hearings and
reports.

Rules,
regulations and
instructions.

"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.

Ante, p. 2879.

“(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.

Investigation.
Procedures,
regulation.

Report to
congressional
committees.

“(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.

Investigations.

“(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.

Research
program.

“(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.”

Ante, p. 2867.

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”;

- (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."

Ante, p. 2884.

Ante, p. 2869.

Ante, pp. 2870,
2875, *Infra*.

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—

Regulation.
7 USC 87f-1.

"(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-

“Control relationship.”

Registration certificate.

Suspension or revocation.

18 USC 1 *et seq.*
Fees.

Deposit.
7 USC 79.

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

Reports to congressional committees.
7 USC 87f-2.

"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.

Ante, p. 2867.
Notification of congressional committees.

"(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.

Complaint summary, submittal to congressional committees.

"(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

7 USC 87e-1.

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.

7 USC 71.

STUDIES OF GRAIN STANDARDS

Investigation and study.
7 USC 76 note.

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).

5 USC 101 *et seq.*

(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.

Report to
Congress.
Ante, p. 2869.

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.

7 USC 75a note.

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:

7 USC 74 note.

Ante, pp. 2870,
2875.

(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.

Ante, p. 2867.

Approved October 21, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-966 (Comm. on Agriculture) and No. 94-1722 (Comm. of Conference).

SENATE REPORT No. 94-747 accompanying S. 3055 (Comm. on Agriculture and Forestry).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Apr. 2, considered and passed House.

Apr. 14, S. 3055 considered in Senate.

Apr. 26, considered and passed Senate, amended, in lieu of S. 3055.

Oct. 1, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 43:

Oct. 22, Presidential statement.