



**Conference Report to Accompany
Food and Agriculture Act of 1977
S. Rep. No. 95-418 (1977)**

Part 4 of 6

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to any other provisions of law, be made as the Secretary may determine to be fair and reasonable.

(h) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the program.

(i) The Secretary shall prescribe such regulations as the Secretary determines necessary to carry out the provisions of this section.

(j) There are hereby authorized to be appropriated for the period beginning October 1, 1977, and ending September 30, 1981, such sums as may be necessary to carry out the program provided for in this section. The Secretary is authorized to utilize the facilities, services, and authorities of the Commodity Credit Corporation in discharging the Secretary's functions and responsibilities under the program, including payment of costs of administration: Provided, That the Commodity Credit Corporation shall not make any expenditures for such purposes unless the Corporation has received funds to cover such expenditures from appropriations made to carry out this section.

TITLE XVI—FEDERAL GRAIN INSPECTION

RECORDS

SEC. 1601. Section 12(d) of the United States Grain Standards Act (90 Stat. 2832; 7 U.S.C. 87a(d)) is amended by striking out "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 inserting in lieu thereof the following: "shall maintain such complete and accurate records for such period of time as the Administrator may, by regulation, prescribe for the purpose of the administration and enforcement of this Act,".

SUPERVISION FEES

SEC. 1602. (a) Section 7(j) of the United States Grain Standards Act (90 Stat. 2873; 7 U.S.C. 79(j)) is amended to read as follows:

"(j) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated cost 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, excluding administrative and supervisory 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 limitation for the expenses of the Service incident to providing services under this Act."

(b) Section 7A(l) of the United States Grain Standards Act (90 Stat. 2877; 7 U.S.C. 79a(l)) is amended to read as follows:

"(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs of official weighing and supervision of weighing except when the official weighing or supervision of weighing 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, cover the costs of the Service incident to its performance of official weighing and supervision of weighing services in the United States and on United States grain in Canadian ports, excluding administrative and supervisory costs. Such fees 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."

(c) Section 21 of the United States Grain Standards Act of 1976 (90 Stat. 2886) is amended by striking out "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" and inserting in lieu thereof the following: "Federal administrative and supervisory costs related to the official inspection or the provision of weighing services for grain".

(d) Section 27 of the United States Grain Standards Act of 1976 (90 Stat. 2889) is amended by striking out "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,".

ESTABLISHMENT OF TEMPORARY ADVISORY COMMITTEE

SEC. 1603. (a) In order to assure the normal movement of grain in an orderly and timely manner, the Secretary of Agriculture shall establish a temporary advisory committee to provide advice to the Administrator of the Federal Grain Inspection Service with respect to the implementation of the United States Grain Standards Act of 1976. The advisory committee shall consist of not more than twelve members, appointed by the Secretary, representing the interests of grain producers, consumers, and all segments of the grain industry, including grain inspection and weighing agencies. Members of the advisory committee shall be appointed not later than thirty days after the date of enactment of this Act.

(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act.

(c) The Administrator of the Federal Grain Inspection Service shall provide the advisory committee with necessary clerical assistance and staff personnel.

(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this title, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5 of the United States Code.

(e) The advisory committee shall terminate eighteen months after the date of enactment of this Act.

(f) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

TECHNICAL AMENDMENTS

SEC. 1604. *The United States Grain Standards Act (39 Stat. 482-485, as amended; 7 U.S.C. 71, 74-79, 79a and 79b, 84-87, and 87a-87h) is amended as follows:*

(a) *Section 3 is amended by—*

(1) *striking out “grain sorghum” in subsection (g) and inserting in lieu thereof “sorghum”;*

(2) *amending subsection (m) 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 (c) of section 7A of this Act for the conduct of official weighing or supervision of weighing (other than appeal weighing);”;

(3) *inserting “for” immediately after “under standards provided” in subsection (x); and*

(4) *amending subsection (y) to read as follows:*

“(y) the term ‘supervision of weighing’ means such supervision by official inspection personnel of the grain-weighing process as is determined by the Administrator to be adequate to reasonably assure the integrity and accuracy of the weighing and of certificates which set forth the weight of the grain and such physical inspection by such personnel of the premises at which the grain weighing is performed as will reasonably assure that all the grain intended to be weighed has been weighed and discharged into the elevator or conveyance;”.

(b) *Section 3A is amended by adding at the end thereof the following: “The Secretary may delegate authority to the Administrator to perform related functions for grain and similar commodities and products thereof under other statutes administered by the Department of Agriculture. Notwithstanding any other provision of law, the Secretary is authorized to appoint four individuals to positions at grade 16 of the General Schedule, in the Service.”.*

(c) *Section 4(a) is amended by—*

(1) *striking out “grain sorghum” and inserting in lieu thereof “sorghum”;*

(2) *inserting a comma after “equipment calibration and maintenance”; and*

(3) *inserting “or procedures” after “(2) standards” and after “revoke such standards” and striking out “procedures” after “weight certification”.*

(d) *Section 7 is amended by—*

(1) *designating the third sentence in paragraph (2) of subsection (e) as paragraph (4) of subsection (e) and inserting it at the end of subsection (e);*

(2) *amending subsection (f) by—*

(A) in the first sentence of paragraph (2), inserting “or State delegated authority pursuant to subsection (e) (2) of this section” immediately after “Not more than one official agency”, inserting “inspection” immediately before “provisions of this Act”, and striking out “, 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";

(B) striking out "No" in the second sentence of paragraph (2) and inserting in lieu thereof "Except as authorized by the Administrator, no";

(C) designating the second sentence of paragraph (2) as paragraph (3) of subsection (f); and

(D) designating the third sentence of paragraph (2) as paragraph (4) of subsection (f);

(3) striking out "subsections (e) and (f)" in paragraph (1) of subsection (g) and inserting in lieu thereof "subsection (f)"; and

(4) adding at the end of subsection (i) a new sentence as follows: "All or specified functions of such inspections shall be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service."

(e) Section 7A is amended by—

(1) in subsection (b), inserting "official weighing or" immediately after "The Administrator is authorized to cause" and inserting "at export elevators" immediately after "located other than";

(2) amending paragraph (2) of subsection (c) by—

(A) in the first sentence, inserting "or supervision of weighing" immediately after "to delegate authority to perform official weighing", inserting "official weighing or" immediately before "supervision of weighing, if such agency or person qualifies", and striking out "number" and inserting in lieu thereof "under";

(B) in clause (A) of the second sentence, striking out "at export elevators", and inserting "or supervision of weighing" immediately after "official weighing"; and

(C) inserting "official weighing or" immediately before "supervision of weighing" wherever this phrase appears in clause (B) of the second sentence;

(3) adding at the end of subsection (d) a new sentence as follows: "All or specified functions of such weighing shall be performed by official inspection personnel employed by the Service or, except for appeals, by persons operating under a contract with the Service.";

(4) striking out the second sentence of subsection (e);

(5) amending subsection (f) by—

(A) in clause (2), striking out "employ" and inserting in lieu thereof "permit", and inserting "and who are approved by the Administrator" immediately before "to operate the scales"; and

(B) in clause (3), striking out "employees of the facility" and inserting in lieu thereof "persons other than official inspection personnel", and striking out "employees to operate" and inserting in lieu thereof "such persons to operate";

(6) inserting "or supervision of weighing" immediately after "official weighing" in subsection (g);

(7) inserting "or local governmental agency" immediately after "No State" in subsection (i); and

(8) adding at the end of subsection (i) a new sentence as follows: "Not more than one official agency or State delegated authority pursuant to subsection (c) (2) of this section for carrying out the weighing 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."

(f) Section 7B is amended by—

(1) inserting "for the purpose of official inspection, official weighing, or supervision of weighing" immediately before "of grain located at all grain elevators" in subsection (a);

(2) at the end of subsection (a), inserting "Such regulations shall provide for the charging and collection of reasonable fees to cover the estimated costs to the Service incident to the performance of such testing by employees of the Service. Such fees shall be deposited into the fund created by section 7(j) of this Act."; and

(3) inserting "for the purposes of this Act" immediately after "no person shall use" in subsection (c).

(g) Section 8 is amended by—

(1) amending subsection (a) by—

(A) inserting "other than appeal weighing," immediately after "supervision of weighing" in clause (1);

(B) striking out "of grain" in clause (2) (B) and inserting in lieu thereof "(including appeal weighing) of grain in the United States, or of United States grain in Canadian ports"; and

(C) in clause (3), inserting "or governmental agency" immediately after "(3) to contract with any person", and striking out "specified sampling and laboratory testing" and inserting in lieu thereof "specified sampling, laboratory testing, and similar technical functions"; and

(2) adding at the end of subsection (e) a new sentence as follows: "The Administrator may compensate such personnel at any rate within the appropriate grade of the General Schedule as the Administrator deems necessary without regard to section 5333 of title 5 of the United States Code."

(h) Section 11 is amended by—

(1) inserting "official weighing or" immediately before "supervision of weighing" in paragraph (3) of subsection (b);

(2) in the first sentence of paragraph (5) of subsection (b), inserting "official weighing or" immediately before "supervision of weighing except", and inserting "director," immediately before "officer, employee,"; and

(3) inserting "or State agency delegated authority under this Act" immediately after "official agency" in subsection (c).

(i) Section 12 is amended by—

(1) inserting "every State agency delegated authority under this Act," immediately after "official agency" wherever this phrase appears in subsections (a), (b), and (c); and

(2) striking out "delegate authority of this Act" in subsection (c) and inserting in lieu thereof "delegated authority under this Act".

(j) *Section 13(a) is amended by—*

(1) *inserting “, or that any weighing service under this Act has been performed with respect to grain” immediately before the semicolon at the end of paragraph (6);*

(2) *striking out in paragraph (11) “5, 6, 7(f)(2), 7A, 7B(c), 8, 11, or 12” and inserting in lieu thereof “5; 6; 7(f)(2), (3), or (4); 7A; 7B(c); 8; 11; 12; or 17A”;*

(3) *striking out “testing” in paragraph (12) and inserting in lieu thereof “weighing”; and*

(4) *in paragraph (13), striking out “the grain” and inserting in lieu thereof “grain”, and inserting “the” immediately after “observing the loading of”.*

(k) *Section 16 is amended by—*

(1) *striking out, in subsection (a), the second sentence and all that follows “or other person;” in the first sentence down through “by the Administrator.” and inserting in lieu thereof the following: “and prescribe such rules, regulations, and instructions, as the Administrator deems necessary to effectuate the purposes or provisions of this Act. Such regulations may require, as a condition for official inspection or official weighing or supervision of weighing, among other things, (1) that there be installed specified sampling, handling, weighing, and monitoring equipment in grain elevators, warehouses, and other grain storage or handling facilities, (2) that approval of the Administrator be obtained as to the condition of vessels and other carriers or receptacles for the 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.”; and*

(2) *striking out “additional” in subsection (f).*

(l) *Section 17A is amended by striking out “All persons registered” in paragraph (1) of subsection (b) and inserting in lieu thereof “All persons required to register”.*

(m) *Section 17B is amended in clause (2) of subsection (b) by inserting “notwithstanding the provisions of section 812 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c-3),” immediately after “(2)” and inserting “notice of” immediately after “Administrator or the Secretary of”.*

(n) *Section 21 is amended by striking out “SEC. 21” and inserting in lieu thereof “SEC. 19”.*

STUDIES OF GRAIN INSPECTION AND WEIGHING, EFFECTIVE DATE

Sec. 1605. (a) Section 8(b) of the United States Grain Standards Act of 1976 (90 Stat. 2874) is amended by—

(1) *inserting in paragraph (3) “(which may include the application of statistical tolerances for expected variations)” immediately after “error rates of such agencies”;*

(2) *striking out in paragraph (4) “eighteen months” and inserting in lieu thereof “thirty months”; and*

(3) striking out in paragraph (5) "two years" and inserting in lieu thereof "three years".

(b) Section 27 of the United States Grain Standards Act of 1976 (90 Stat. 2889) is amended by—

(1) striking out all that follows "SEC. 27." down through "without a designation under the United States Grain Standards Act, as amended by this Act" and inserting in lieu thereof the following: "This Act shall become effective thirty days after enactment hereof; and thereafter no State or other agency or person shall provide official inspection or official weighing or supervision of weighing under the United States Grain Standards Act, as amended by this Act, at an export port location without a delegation of authority or other authorization under such amended Act, and no agency or person shall provide official inspection service or official weighing or supervision of weighing under such amended Act in any other area without a designation or other authorization under such amended Act";

(2) inserting "or other authorization under such Act" immediately after "may continue to operate in that area without a delegation or designation"; and

(3) striking out "and export elevators located at export port locations" in clause (3).

MISCELLANEOUS AMENDMENTS

SEC. 1606. The United States Grain Standards Act is further amended as follows:

(a) Section 3(i) is amended by striking out "or, upon request of the interested party applying for inspection, the quantity of sacks of grain,".

(b) Section 5(a) is amended by inserting "or procedures" immediately after "standards" each place it appears therein.

(c) Section 6(a) is amended by striking out "factor information" and inserting in lieu thereof "criteria".

(d) Section 7(b) is amended by striking out "or quantity of sacks of grain,".

(e) Section 7A is amended by inserting in subsections (a), (b), and (e) "or procedures" immediately after "standards".

(f) Section 8(f) is amended by inserting "and weighing" immediately after "integrity of the official inspection".

(g) Section 11(b)(4) is amended by inserting "or supervision of weighing" immediately after "official weighing".

(h) Section 13(a)(6) is amended by striking out "condition, or quantity" and inserting in lieu thereof "or condition".

(i) Sections 16(b) and 17B are amended by striking out the words "Committee on Agriculture and Forestry" each place these words appear therein and inserting in lieu thereof "Committee on Agriculture, Nutrition, and Forestry".

(j) Section 17B(a) is amended by inserting "and weighing" immediately after "inspection".

CONFORMING AMENDMENTS

SEC. 1607. The United States Grain Standards Act of 1976 (90 Stat. 2874 and 2890) is amended as follows:

(a) Section 8(b)(4) is amended by striking out "Committee on Agriculture and Forestry" and inserting in lieu thereof "Committee on Agriculture, Nutrition, and Forestry."

(b) Section 27 is amended by inserting "or" immediately after the semicolon at the end of clause (2).

RETENTION OF DESIGNATIONS FOLLOWING CONVICTIONS

SEC. 1608. Section 27 of the United States Grain Standards Act (90 Stat. 2890) is amended by inserting immediately before the semicolon at the end of clause (2) the following: ": Provided, That the Administrator may allow such affected agency or person to continue to operate in that area if the Administrator determines that such continued operations are necessary or desirable in carrying out the requirements of this Act: Provided further, That the Administrator shall, within 30 days after making such determination, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate detailing the factual bases for such determination".

TITLE XVII—WHEAT AND WHEAT FOODS RESEARCH
AND NUTRITION EDUCATION ACT

SHORT TITLE

SEC. 1701. This title may be cited as the "Wheat and Wheat Foods Research and Nutrition Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1702. (a) Wheat is basic to the American diet and the American economy. It is grown by thousands of farmers and consumed, in various forms, by millions of people in the United States.

(b) The size of the American wheat crop and how it is marketed and ultimately consumed determines whether many Americans receive adequate nourishment. Wheat has a strong impact on the Nation's well-being. Additional research on the optimal use of wheat products can improve the American diet. Consumer education about the nutritional value and economic use of wheat products can enhance the national welfare.

(c) It has long been recognized that it is in the national interest to have a regular, adequate, and high quality wheat supply. It would be extremely difficult, without an effective coordinated research and nutrition education effort, to accomplish this objective. A programed effort of research and nutrition education is of great importance to wheat producers, processors, end product manufacturers, and consumers.

(d) It is the purpose of this title and in the public interest to authorize and enable the creation of an orderly procedure, adequately financed through an assessment, for the development and initiation of

an effective and continuous coordinated program of research and nutrition education, designed to improve and enhance the quality, and make the most efficient use, of American wheat, processed wheat, and wheat end products to ensure an adequate diet for the people of the United States. The maximum rate of assessment authorized hereunder represents an infinitesimal proportion of the overall cost of manufacturing wheat end products. Therefore, such assessment will not significantly affect the retail prices of those products. Furthermore, any price effect will be more than offset by the increased efficiency in end product manufacture and increased consumer acceptance, due to nutritional improvements in wheat products, which may be expected to follow from adoption of a plan under this title. Nothing in this title shall be construed to provide for control of production or otherwise limit the right of individual wheat producers to produce wheat.

DEFINITIONS

SEC. 1703. For the purposes of this title:

(a) The term "wheat" means all classes of wheat grains grown in the United States.

(b) The term "processed wheat" means the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means.

(c) The term "end product" means any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional incidental preparation which may be necessary by the ultimate consumer.

(d) The term "wheat producer" means any person who grows wheat within the United States for market.

(e) The term "processor" means any person who commercially produces processed wheat within the United States.

(f) The term "end product manufacturer" means any person who commercially produces an end product within the United States, but such term shall not include such persons to the extent that they produce end products on the premises where such end products are to be consumed by an ultimate consumer, including, but not limited to, hotels, restaurants, and institutions, nor shall such term include persons who produce end products for their own personal, family, or household use.

(g) The term "research" means any type of research to advance the nutritional quality, marketability, production, or other qualities of wheat, processed wheat, or end products.

(h) The term "nutrition education" means any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat, and end products.

(i) The term "Council" means the Wheat Industry Council established pursuant to section 1706 of this title.

(j) The term "Department" means the United States Department of Agriculture.

(k) The term "Secretary" means the Secretary of Agriculture of the United States.

(l) The term "person" means any individual, partnership, corporation, association, or other entity.

(m) The term "United States" means the several States and the District of Columbia, including any territory or possession.

ISSUANCE OF ORDERS

SEC. 1704. (a) Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this title, the Secretary shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and proposal for an order submitted by an organization certified pursuant to section 1714 of this title, or by any interested person affected by the provisions of this title, including the Secretary.

(b) After notice and opportunity for hearing as provided in section 1704(a) of this title, the Secretary shall issue an order if the Secretary finds, and sets forth in such order, upon the evidence introduced at such hearing that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this title.

PERMISSIVE TERMS IN ORDERS

SEC. 1705. Any order issued pursuant to this title shall contain one or more of the following terms and conditions, and, except as provided in section 1706 of this title, no others:

(a) providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for nutrition education, both within the United States and in international markets, with respect to wheat, processed wheat, and end products, and for the disbursement of necessary funds for such purposes: Provided, That in carrying out any such plan or project, no reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against wheat, processed wheat, and end products of other persons: Provided further, That no such plans or projects shall make use of unfair or deceptive acts or practices in behalf of wheat, processed wheat, and end products or unfair or deceptive acts or practices with respect to quality, value, or use of any competing product;

(b) providing for the establishment and conduct of research or studies with respect to sale, distribution, marketing, utilization, or production of wheat, processed wheat, and end products and the creation of new products thereof to the end that the marketing and utilization of wheat, processed wheat, and end products may be encouraged, expanded, improved, or made more acceptable, and for the disbursement of necessary funds for such purposes;

(c) providing that processors, distributors of processed wheat, and end product manufacturers shall maintain and make available for inspection by the Secretary or the Council such books and records as may be required by any order issued pursuant to this title and for the filing of reports by such persons at the time, in the manner, and having the content prescribed by the order, to the end that information shall be

made available to the Council and to the Secretary which are appropriate or necessary to the effectuation, administration, or enforcement of this title, or of any order or regulation issued pursuant to this title: Provided, That all information so obtained shall be kept confidential by all officers and employees of the Department, the Council, and by all officers and employees of contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, (2) the publication, by direction of the Secretary, of general statements relating to refunds made by the Council during any specific period, or (3) the publication by direction of the Secretary of the name of any person who has been adjudged to have violated any order, together with a statement of the particular provisions of the order violated by such person. Any such officer or employee of the Department, the Council, or a contracting agency violating the provisions of this clause shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both, and if an officer or employee of the Council or Department shall be removed from office;

(d) providing for exemption of specified end products, or types or categories thereof, from the assessments required to be paid under section 1706 of this title under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder; and

(e) terms and conditions incidental to and not inconsistent with the terms and conditions specified in this title and necessary to effectuate the other provisions of such order.

REQUIRED TERMS IN ORDERS

SEC. 1706. *Any order issued pursuant to this title shall contain such terms and conditions as to provide—*

(a) for the establishment and appointment by the Secretary of a Wheat Industry Council which shall consist of not more than twenty members and alternates therefor, and for the definition of its powers and duties which shall include only the powers enumerated in this section, and shall specifically include the powers to (1) administer such order in accordance with its terms and provisions, (2) make rules and regulations to effectuate the terms and provisions of such order, (3) receive, investigate, and report to the Secretary complaints of violations of such order, and (4) recommend to the Secretary amendments to such order. The term of an appointment to the Council shall be for two years with no member serving more than three consecutive terms, except that

initial appointments shall be proportionately for two-year and three-year terms;

(b) that the Council and alternates therefor shall be composed of wheat producers or representatives of wheat producers, processors or representatives of processors, end product manufacturers or representatives of end product manufacturers, and consumers or representatives of consumers appointed by the Secretary from nominations submitted by eligible organizations or associations certified pursuant to section 1714 of this title, or, if the Secretary determines that a substantial number of wheat producers, processors, end product manufacturers, or consumers are not members of, or their interests are not represented by any such eligible organizations or associations then from nominations made by such wheat producers, processors, end product manufacturers, and consumers in the manner authorized by the Secretary, so that the representation of wheat producers, processors, end product manufacturers, and consumers on the Council shall be equal: Provided, That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of wheat producers, processors, end product manufacturers, and consumers throughout the United States;

(c) that the Council shall, subject to the provisions of clause (g) of this section, develop and submit to the Secretary for approval any research plans or projects and nutrition education plans or projects resulting from research, and that any such plan or project must be approved by the Secretary before becoming effective;

(d) that the Council shall, subject to the provisions of clause (g) of this section, submit to the Secretary for approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of the order, including probable costs of research and nutrition education projects;

(e) that, except as provided in sections 1705(d) and 1707 of this title, each end product manufacturer shall pay to the Council, pursuant to regulations issued under the order, an assessment based on the number of hundredweights of processed wheat purchased, including intra-company transfers of processed wheat, for use in the manufacture of end products, from processors, distributors, or (in the case of intra-company transfers) related companies or divisions of the same company. Such assessment shall be used for such expenses and expenditures defined above, including provisions for a reasonable reserve, and any referendum and administrative costs incurred by the Secretary and the Council under this title, as the Secretary finds are reasonable and likely to be incurred under the order during any period specified by the Secretary. The circumstances under which such a purchase or intra-company transfer will be deemed to have occurred will be prescribed by the Secretary in the order. Such assessment shall be calculated and set aside on the books and records of the end product manufacturer at the time of each purchase or intra-company transfer of processed wheat, and shall be remitted to the Council in the manner prescribed by the order. In order to en-

able end product manufacturers to calculate the amount of processed wheat they have purchased, persons selling or transferring processed wheat in combination with other ingredients to such end product manufacturers for use in the manufacture of end products, shall disclose to such end product manufacturers, as prescribed by the Secretary in the order, the amount or proportion of processed wheat contained in such products. The rate of assessment shall not exceed five cents per hundredweight of processed wheat purchased or transferred. The Secretary may maintain a suit against any person subject to such assessment for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy;

(f) that the Council shall maintain such books and records, which shall be available to the Secretary for inspection and audit, and prepare and submit such reports from time to time, to the Secretary as the Secretary may prescribe, and for appropriate accounting by the Council, with respect to the receipt and disbursement of all funds entrusted to it;

(g) that the Council, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order pursuant to terms and conditions specified in clauses (a) and (b) of section 1705 of this title and for the payment of the cost thereof with funds collected through the assessments pursuant to the order. Any such contract or agreement shall provide that the contractors shall develop and submit to the Council a plan or project together with a budget or budgets which shall show estimated costs to be incurred for such plan or project, and that any such plan or project shall become effective upon the approval of the Secretary, and further, shall provide that the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Council of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require;

(h) that the Council, with the approval of the Secretary, may invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under this title in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank which is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States;

(i) that no funds collected by the Council under the order shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by clause (a) (4) of this section; and

(j) that the Council members, and alternates therefor, shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Council.

EXEMPTION

SEC. 1707. Any end product manufacturer who is a retail baker shall be exempt from the provisions of this title. For the purposes of this section, the term "retail baker" shall be deemed to include all end product manufacturers who sell end products directly to the ultimate consumer: Provided, That such term shall not include any end product manufacturer who derives less than 10 per centum of gross end product sales revenues from sales to ultimate consumers or who derives 10 per centum or more of gross food or food products sales revenues from the sale of such products manufactured or produced by others.

REQUIREMENT OF REFERENDUM

SEC. 1708. The Secretary shall conduct a referendum as soon as practicable among end product manufacturers not exempt hereunder who, during a representative period preceding the date of the referendum, as determined by the Secretary, have been engaged in the manufacture of end products, for the purpose of ascertaining whether the issuance of an order is approved or favored by such manufacturers. Qualified end product manufacturers may register with the Secretary by mail to vote in such referendum during a period ending not less than thirty days prior to the date of the referendum. Within ten days thereafter, the Secretary shall determine which end product manufacturers are eligible to vote in such referendum and cause to be published the list of such eligible voters. The Secretary shall issue ballots to all such persons who have so registered and been declared eligible to vote. No order issued pursuant to this title shall be effective unless the Secretary determines (1) that votes were cast by at least 50 per centum of such registered end product manufacturers, and (2) that the issuance of such order is approved or favored by not less than two-thirds of the end product manufacturers voting in such referendum or by a majority of the end product manufacturers voting in such referendum if such majority manufactured end products containing not less than two-thirds of the total processed wheat contained in all end products manufactured by those voting in the referendum, during the representative period defined by the Secretary: Provided, That at the time of the registration provided under this section each end product manufacturer so registering shall certify to the Secretary the amount of processed wheat contained in the end products manufactured by such end product manufacturer during such representative period. The Secretary shall be reimbursed from assessments collected by the Council for any expenses incurred for the conduct of the referendum. Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than twelve months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the courts determine a recount and retabulation of results is appropriate.

REFUND

SEC. 1709. (a) Subsequent to the approval by the Secretary of the annual budget of the Council or amendments thereto, a summary of such budget or amendments thereto, including a brief general descrip-

tion of the proposed research and nutrition education programs contemplated therein, shall be published in the Federal Register. All end product manufacturers not exempt hereunder shall have sixty days from the date of such publication within which to elect, under such conditions as the Secretary may prescribe, by so indicating to the Council in writing, by registered or certified mail, to reserve the right to seek refunds under subsection (b) of this section. Only those end product manufacturers who make such an election, under the described procedure, shall be eligible for refunds of assessments paid during the one-year period immediately following the expiration of such sixty-day period.

(b) Notwithstanding any other provision of this title, any end product manufacturer who has been subject to and has paid an assessment, but who has reserved the right, under subsection (a) of this section, to seek a refund, and who is not in favor of supporting the programs as provided for herein, shall have the right to demand and receive from the Council a refund of such assessment: Provided, That such demand shall be made by such end product manufacturer in accordance with regulations, and on a form and within a time period, prescribed by the Council and approved by the Secretary and upon submission of proof satisfactory to the Council that the end product manufacturer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand is received therefor.

PETITION AND REVIEW

SEC. 1710. (a) Any person subject to any order may file a written petition with the Secretary, stating that any such order or any provision of such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or for an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

ENFORCEMENT

SEC. 1711. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order or regulation made or issued pursuant to this title. Any civil action authorized to be brought

under this title shall be referred to the Attorney General for appropriate action: Provided, That nothing in this title shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this title whenever the Secretary believes that the administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any end product manufacturer or other person who willfully violates any provision of any order issued by the Secretary under this title, or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty of not more than \$1,000 for each such offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 1712. (a) The Secretary shall, whenever he finds that any order issued under this title, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or such provision thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 per centum or more of the number of end product manufacturers subject to the order, to determine whether such manufacturers favor the termination or suspension of the order, and the Secretary shall suspend or terminate such order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the end product manufacturers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the manufacture of end products or by end product manufacturers who produced end products containing more than 50 per centum of the total processed wheat contained in all end products manufactured during such period by the end product manufacturers voting in the referendum.

(c) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this title.

INVESTIGATIONS: POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS: AID OF COURTS

SEC. 1713. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this title or to determine whether any person subject to the provisions of this title has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this title, or of any order, or rule or regulation issued under this title. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers,

and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

CERTIFICATION OF ORGANIZATIONS

SEC. 1714. The eligibility of any organization to represent wheat producers, processors, end product manufacturers, or consumers to request the issuance of an order under section 1704(a) of this title and to participate in the making of nominations under section 1706(b) of this title, shall be certified by the Secretary. The Secretary shall certify any organization which the Secretary finds to be eligible under this section and the Secretary's determination as to eligibility shall be final. Certification shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including, but not limited to, the following:

(a) geographic territory covered by the organization's active membership,

(b) nature and size of the organization's active membership, including, in the case of an organization other than a consumer organization, the proportion of the total number of active wheat producers, processors, or end product manufacturers represented by the organization,

(c) evidence of stability and permanency of the organization,

(d) sources from which the organization's operating funds are derived,

(e) functions of the organization, and

(f) the organization's ability and willingness to further the aims and objectives of this title: Provided, That the primary consideration in determining the eligibility of an organization, other than a consumer organization, shall be whether its membership consists primarily of wheat producers, processors, or end product manufacturers who produce a substantial volume of wheat, processed wheat, or end products, respectively, and whether the organization is based on a primary or overriding interest in the production, processing, or end manufacture of wheat or wheat products, and the nutritional attributes thereof: Provided further, That the primary consideration in determining

the eligibility of a consumer organization shall be whether (1) a principal purpose of the organization is to promote consumer interests, consumer research, or consumer education, (2) such organization has a broadly representative constituency of consumers, with active membership participation on a regular basis, and (3) the organization has demonstrated to the Secretary's satisfaction its commitment to the achievement of the objectives of this title.

EFFECT ON OTHER PROGRAMS

SEC. 1715. Nothing in this title shall be construed to preempt or interfere with the workings of any other program relating to wheat or wheat foods research or nutrition education organized and operating under the laws of the United States or any State.

REGULATIONS

SEC. 1716. The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this title.

PROVISIONS APPLICABLE TO AMENDMENTS

SEC. 1717. The provisions of this title applicable to orders shall be applicable to amendments to orders.

SEPARABILITY

SEC. 1718. If any provision of this title or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION

SEC. 1719. There are hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated such funds as are necessary to carry out the provisions of this title. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provisions of any order issued pursuant to the terms of this title.

TITLE XVIII—DEPARTMENT OF AGRICULTURE ADVISORY COMMITTEES

PURPOSES

SEC. 1801. The purposes of this title are to—

- (1) require strict financial and program accounting by advisory committees of the Department of Agriculture;*
- (2) assure balance and objectivity in the membership of such advisory committees; and*
- (3) prevent the formation or continuation of unnecessary advisory committees by the Department of Agriculture.*

DEFINITIONS

SEC. 1802. When used in this title—

(1) *the term "Secretary" means the Secretary of Agriculture of the United States;*

(2) *the term "Department of Agriculture" means the United States Department of Agriculture; and*

(3) *the term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof which is established or utilized by the Department of Agriculture in the interest of obtaining advice or recommendations for the President or the Department of Agriculture, except that such term excludes any committee which (A) is composed wholly of full-time officers or employees of the Federal Government, (B) is established by statute or reorganization plan, or (C) is established by the President.*

ESTABLISHMENT OF ADVISORY COMMITTEES

SEC. 1803. No advisory committee shall be established by the Department of Agriculture unless the Secretary determines that—

(1) *the advisory committee will serve an essential function;*

(2) *the proposed membership for the advisory committee represents a balance of differing views;*

(3) *the proposed work and goals of the advisory committee cannot be carried out by an existing advisory committee;*

(4) *the proposed budget of the advisory committee reflects the reasonably anticipated costs of performing the function of the advisory committee; and*

(5) *the establishment of the advisory committee is in the public interest.*

ADDITIONAL DUTIES OF THE SECRETARY

SEC. 1804. In addition to any responsibilities which the Secretary has under the Federal Advisory Committee Act, as amended, or other provision of law with respect to advisory committees, the Secretary shall ensure that all advisory committees—

(1) *comply with all provisions of law relating to advisory committees, including this title;*

(2) *submit all reports and recommendations in written form;*

(3) *retain a written record of any responses made by the Department of Agriculture to the recommendations of the advisory committees; and*

(4) *do not exceed their proposed budgets by 10 per centum or \$500, whichever is greater, without receiving prior approval for such additional expenditures from the Secretary as provided under section 1808 of this title.*

MEMBERSHIP ON ADVISORY COMMITTEES

SEC. 1805. (a) No person other than an officer or employee of the Department of Agriculture shall serve on an advisory committee for more than six consecutive years.

(b) *No person shall simultaneously serve on more than one advisory committee unless authorized by the Secretary.*

(c) *All advisory committees shall, to the extent practicable, have—*

(1) a balanced membership reflecting the differing views of the groups substantially affected by the matters to be considered by such advisory committees; and

(2) ethnic, racial, and sexual balance.

(d) *Each member of an advisory committee shall use his or her full name and principal place of residence, and shall provide the Secretary with (1) the names of persons or companies by whom he or she is employed, (2) his or her principal occupation, and (3) his or her major sources of income. Such information shall be forwarded to the appropriate committees of Congress having legislative jurisdiction or oversight responsibility with respect to the agency within the Department of Agriculture which established the advisory committee, as part of the annual report provided for in section 1807 of this title.*

(e) *Not more than one officer or employee of any corporation or other entity, including all subsidiaries and affiliates thereof, shall serve on the same advisory committee at any one time, unless excepted by the Secretary.*

ADVISORY COMMITTEE CHARTER REQUIREMENTS—OPERATING COSTS

SEC. 1806. In addition to complying with the other requirements of section 9(c) (G) of the Federal Advisory Committee Act, each advisory committee shall provide the following information to the Secretary when it files its charter—

(1) a statement that the estimate of annual operating costs developed pursuant to section 9(c) (G) of the Federal Advisory Committee Act is inclusive of all private and public moneys to be spent by or on behalf of the advisory committee; and

(2) specific estimates of—

(A) the amount of Federal funds that will be used annually to support directly or indirectly the operation of the advisory committee;

(B) the dollar value of the time and the expenses that will be incurred annually by Federal agencies and employees in assisting in the operation of the advisory committee;

(C) the travel expenses, including per diem or subsistence in lieu thereof, that will be incurred annually by advisory committee members and Department of Agriculture employees in attending meetings of the advisory committee, including travel performed in support of the advisory committee's operation; and

(D) all expenses that will be paid annually by sources outside the Government, including, but not limited to, expenses borne by the committee members or other individuals, such as their employers, corporations, organizations, associations, or labor organizations.

ANNUAL REPORT

SEC. 1807. (a) In addition to the other requirements of section 10 of the Federal Advisory Committee Act, as amended, each advisory

committee within the Department of Agriculture, including all advisory committees as defined in section 1802(c) of this title and all other advisory committees within the Department of Agriculture established by statute or reorganization plan or established by the President, shall prepare, at least annually, a written report which shall contain—

(1) a description of all recommendations and suggestions it has provided to any executive department, agency, or other authority of the United States, or any State, or any individual during the immediately preceding year;

(2) a description of the response it has made during the immediately preceding year to specific recommendations and suggestions from any executive department, agency, or other authority of the United States, or any State, or any individual;

(3) an itemization, in detail, of all costs incurred by it during the immediately preceding year, including, but not limited to—

(A) public money spent on transportation for advisory committee members and other Department of Agriculture employees engaged in the business of the advisory committee, including individuals who are not members of the advisory committee;

(B) per diem allowances for temporary duty expenses for advisory committee members and for Department of Agriculture employees engaged in the work of the advisory committee who are not members of the advisory committee;

(C) salaries and consultant fees paid to the advisory committee members, guest presenters, or other advisors or assistants to the advisory committee at meetings of the advisory committee;

(D) the value of Department of Agriculture staff support time spent on the business of the advisory committee;

(E) the cost of leasing, renting, or purchasing equipment, meeting rooms, and supplies for the advisory committee;

(F) any additional cost involved in meetings of the advisory committee, including receptions, luncheons, dinners, and entertainment;

(G) miscellaneous expenses, with a separate category for any major expense item peculiar to the advisory committee; and

(H) such other expenses or cost items as may be relevant to full disclosure of the costs of operating the advisory committee; and

(4) a list of the members of the advisory committee and, where applicable, the background information on each member required to be submitted under section 1805 of this title.

(b) The report required by this section shall be transmitted to the Secretary, the appropriate committees of Congress having legislative jurisdiction or oversight with respect to the agency within the Depart-

ment of Agriculture which established the advisory committee, and the Library of Congress. A copy of such report shall also be available at the central location of each such advisory committee's files.

BUDGET PROHIBITIONS

SEC. 1808. (a) No advisory committee shall expend funds in excess of its estimated annual operating costs by more than 10 per centum or \$500, whichever is greater, unless it files a request therefor with the Secretary prior to any such expenditure which shall specify the use to which such funds will be put together with a comprehensive explanation as to why such expenditures were not known at the time of the annual estimate of operating costs, and the Secretary approves such request.

(b) The Secretary shall not approve the release of any funds under the Secretary's control to an advisory committee for any such overrun expenditure unless the Secretary finds that such funds are essential to the performance of the advisory committee's mission and the need for such funds could not have been reasonably anticipated.

TERMINATION OF ADVISORY COMMITTEES

SEC. 1809. (a) The Secretary shall terminate any advisory committee upon a finding that any such advisory committee—

(1) has expended funds in excess of its estimated annual operating costs by more than 10 per centum or \$500, whichever is greater, without having obtained the prior approval of the Secretary pursuant to the provisions of section 1808 of this title;

(2) has failed to file in a timely manner all reports required under the provisions of the Federal Advisory Committee Act, as amended, or this title;

(3) has failed to meet for two consecutive years;

(4) has failed to issue any written reports other than reports required under the Federal Advisory Committee Act, as amended, and this title for two consecutive years;

(5) has failed to comply with any provision of the Federal Advisory Committee Act, as amended, or this title;

(6) is responsible for functions which otherwise would be or should be performed by Federal employees; or

(7) does not serve or has ceased to serve an essential public function.

(b) Any advisory committee terminated under the provisions of this section may be reestablished only under the procedures set out in section 9 of the Federal Advisory Committee Act. If an advisory committee terminated under the provisions of this section is reestablished, all records, reports, and the complete files of such advisory committee so terminated shall be maintained together with the files of such reestablished advisory committee.

TITLE XIX—EFFECTIVE DATE

SEC. 1901. Except as otherwise provided herein, the provisions of this Act shall become effective October 1, 1977.

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

And the Senate agree to the same.

HERMAN E. TALMADGE,
JAMES O. EASTLAND,
GEORGE MCGOVERN,
JAMES B. ALLEN,
HUBERT H. HUMPHREY,
ROBERT DOLE,
MILTON R. YOUNG,
CARL T. CURTIS,

Managers on the Part of the Senate.

THOMAS S. FOLEY,
W. R. POAGE,
EDE LA GARZA,
WALTER B. JONES,
ED JONES,
DAWSON MATHIS,
DAVID R. BOWEN,
CHARLIE ROSE,
FRED RICHMOND,
RICHARD NOLAN,
JIM WEAVER,
BILL WAMPLER,
KEITH G. SEBELIUS,
PAUL FINDLEY,
CHARLES THONE,
CLEMENT J. ZABLOCKI,¹
DONALD J. PEASE,¹

Managers on the Part of the House.

¹ On issues involving Public Law 480—Title XII, International Research—Title XIV, and provisions of S. 275 on international reserves.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 275) to provide price and income protection for farmers and assure consumers of an abundance of food and fiber at reasonable prices, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report. The differences between the Senate bill and the House amendment and the substitute agreed to in conference are noted in the following outline, except for conforming, clarifying, and technical changes:

SHORT TITLE

The *Senate* bill provides that the Act may be cited as the "Food and Agriculture Act of 1977".

The *House* amendment provides that the Act may be cited as the "Agricultural Act of 1977".

The *Conference* substitute adopts the *Senate* provision.

TITLE I—PAYMENT LIMITATION

(1) *Payment Limitation—Wheat, Feed Grains, and Upland Cotton (Sec. 101)**

The *Senate* bill increases the present annual total payment limitation for wheat, feed grains, and upland cotton from \$20,000 to \$50,000 for the 1978 through 1982 crops.

The *House* amendment provides for a \$35,000 payment limitation for 1978 increased by 10 percent each year through the 1981 crop.

The *Conference* substitute provides for a payment limitation of \$40,000 for the 1978 crop of wheat, feed grains, and upland cotton, increased to \$45,000 for the 1979 crop of such commodities, and to \$50,000 for the 1980 and 1981 crops of such commodities (including rice).

(2) *Payment Limitation—Rice and ELS Cotton (Sec. 101)*

Existing law provides for a \$55,000 payment limitation for rice, but none for extra long staple cotton. The *Senate* bill includes rice and extra long staple cotton as annual crops subject to the \$50,000 payment limitation.

The *House* amendment does not include these commodities among those covered by the payment limitation in section 101. It would, in

*Except as otherwise noted herein, the section references are references to the *Conference* substitute.

section 704 of the amendment, decrease the current \$55,000 payment limitation for rice by 5 percent each year, beginning with the 1978 crop, but not below that in effect for wheat, feed grains, and upland cotton. The *House* amendment contains no provision relating to ELS cotton.

The *Conference* substitute adopts the *House* amendment for rice for the 1978 and 1979 crops by reducing the payment limitation on rice to \$52,250 for the 1978 crop and to \$50,000 for the 1979 crop. Beginning with the 1980 crop, the *Conference* substitute adopts the *Senate* provision for rice by including rice as one of the annual crops subject to the \$50,000 limitation which also applies to payments on wheat, feed grains, and upland cotton. The *Conference* substitute deletes the *Senate* provision which would subject extra long staple cotton to the payment limitation.

(3) *Exclusions from the Payment Limitation (Sec. 101)*

The *Senate* bill amends the definition of the term "payments" to provide that it does not include any part of any payment which is determined by the Secretary of Agriculture to represent compensation for disaster loss or resource adjustment (excluding diversion payments).

The *House* amendment retains the definition in existing law providing that the term "payments" does not include any part of any payment determined by the Secretary to represent resource adjustment or public access for recreation. The *House* amendment also provides in section 602 of the amendment that compensation for disaster loss on upland cotton shall not be regarded as payment for purposes of the payment limitation.

The *Conference* substitute adopts the exclusions provided in the *Senate* provision and the exclusion for compensation for public access contained in the *House* amendment. Also excluded from the payment limitation are any increases in target price payments for wheat and feed grains under titles IV and V of the *Conference* substitute from resulting decreases in the loan rate.

(4) *Family Farms (Sec. 102)*

The *Senate* bill states the policy of Congress that no agricultural or agricultural-related program be administered so as to place family farm operations at an unfair economic disadvantage. It also requires the Secretary to submit to Congress by July 1 of each year a written report concerning family farming operations.

The *House* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(5) *Persons Eligible for Payments (Sec. 103)*

The *Senate* bill adds a new subsection which provides that no payment for the 1978 through 1982 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice may be made to any person except—

"(1) a sole proprietorship farming operation (including any individual operating a farm as a tenant);

"(2) a corporation or other entity engaged in a farming operation if a controlling interest in such corporation or other entity is held by individuals engaged primarily in farming;

“(3) a small business corporation as defined in section 1371(a) of the Internal Revenue Code of 1954;

“(4) a trust or similar arrangement which involves the production of wheat, feed grains, cotton, or rice, and which was established on or after the date of enactment of the Food and Agriculture Act of 1977 by one or more persons who would have been eligible for payments under this subsection had such persons been engaged in a farming operation themselves on the land with which such trust or similar arrangement is concerned;

“(5) a trust or similar arrangement which involves the production of wheat, feed grains, cotton, or rice, and which was established by any person prior to the date of enactment of the Food and Agriculture Act of 1977;

“(6) an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and which is exempt from taxation under section 501(a) of such Code;

“(7) a partnership or similar arrangement in which each partner or owner would, if engaged in a farming operation on his own, be eligible for payments under this subsection; and

“(8) any State, political subdivision, or agency thereof.”

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision and provides, instead, for the Secretary to conduct a study and report to Congress by January 1, 1979, on the impact that would result from carrying out the *Senate* provision on (1) participation in the wheat, feed grain, cotton, and rice programs and (2) the production of such commodities. The study is also required to assess the impact of extending the exclusions to tenants on land owned by entities which would not be eligible for payment under the *Senate* provision. To the extent possible, the study shall use information compiled by the Department of Agriculture in administering the payment limitation in current and prior years. The Secretary is authorized to collect such other information as may be necessary for the study.

TITLE II—DAIRY AND BEEKEEPER PROGRAMS

DAIRY

(1) *Dairy Base Plans (Sec. 201)*

The *Senate* bill extends for five years (through December 31, 1985) provisions of the Agricultural Act of 1970 relating to milk marketing order authorizations for base excess plans, Louisville plans, and Class I base plans and related matters.

The *House* amendment extends the same provisions for four years (through December 31, 1984).

The *Conference* substitute adopts the *House* amendment.

(2) *Legal Status of Producer Handlers (Sec. 202)*

The *Senate* bill provides that the legal status of producer handlers of milk shall be the same subsequent to the adoption of the amendment made by the bill as it was prior thereto.

The *House* amendment does not contain this explicit provision, but—like the *Senate* bill—extends a provision in the Agricultural Act of

1970 providing that the legal status of producer handlers shall be the same subsequent to the adoption of the amendments made by that Act as it was prior thereto.

The *Conference* substitute adopts the *Senate* provision.

(3) *Dairy Price Support Level (Sec. 203)*

The *Senate* bill requires that the price of milk be supported at not less than 80 percent of parity from the date of enactment until March 31, 1979.

The *House* amendment contains the same provision as the *Senate* bill but extends the required support level for two additional years, until March 31, 1981.

The *Conference* substitute adopts the *Senate* provision with the period for the required support to begin on the effective date of the bill.

(4) *Dairy Price Support Adjustments (Sec. 203)*

The *Senate* bill requires semiannual adjustments of the support price of milk, from the date of enactment to March 31, 1979, to reflect any estimated change in the parity index and gives the Secretary of Agriculture discretionary authority to make quarterly adjustments in the support price.

The *House* amendment contains the same provision as the *Senate* bill but extends the requirement for semiannual adjustments for two additional years to March 31, 1981.

The *Conference* substitute adopts the *House* amendment with the period for the required adjustments to begin on the effective date of the bill.

(5) *Transfers of Dairy Products to the Military and Veterans Hospitals (Sec. 204)*

The *Senate* bill extends for five years (1978–1982) the authority for donating dairy products to the military and to veterans hospitals to increase the use of such products.

The *House* amendment extends the authority for four years (1978–1981).

The *Conference* substitute adopts the *House* amendment.

(6) *Dairy Indemnity Program—Expansion (Sec. 205)*

A. The *Senate* bill adds a provision, effective October 1, 1977, for indemnity payments to dairy farmers because of contamination from nuclear radiation or fallout or residues of chemicals or toxic substances which were not used contrary to applicable regulations or labeling instructions.

The *House* amendment adds a provision for indemnity payments to dairy farmers who—because of contamination from nuclear radiation or fallout—are directed since the enactment of the bill to remove their milk from commercial markets.

The *Conference* substitute adopts the *Senate* provision. The *Conferees* intend that the Secretary give full and careful consideration to all claims for indemnity payments. The proviso in the *Senate* provision stating that no indemnity payment may be made if the Secretary determines within 30 days that other legal recourse is avail-

able to the farmer would not preclude the Secretary from reopening the case at a later date and making a different determination.

B. The *Senate* bill also provides for such payments to manufacturers of dairy products.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(7) *Dairy Indemnity Program—Extension (Sec. 205)*

The *Senate* bill extends the authority for the dairy indemnity program for 5 years (to September 30, 1982).

The *House* amendment extends this authority for four years (to September 30, 1981).

The *Conference* substitute adopts the *House* amendment.

ICE CREAM STANDARDS (SEC. 206)

The *House* amendment requires the Secretary to issue milk content standards for ice cream within thirty days after enactment of the bill. The standard will require that (1) ice cream shall contain a minimum of 1.6 pounds of solids per gallon, weigh at least 4.5 pounds per gallon, and contain at least 20 percent milk solids constituted of not less than 10 percent milkfat; (2) the content of milk solids not fat shall not be less than 6 percent; and (3) whey cannot constitute more than 25 percent by weight of the milk solids not fat. Only those products meeting the standards could bear the symbol indicating that they meet the USDA standards for ice cream.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment. It is intended that the standard of quality established by the Secretary prescribe ingredients at least equal to those contained in the present standard of identity for ice cream established by the Food and Drug Administration. Manufacturers of ice cream meeting the standard of quality could voluntarily submit to supervision by the Department of Agriculture and display the USDA symbol of quality on the package, much the same as is the current practice for butter.

The adoption of the amendment is the outgrowth of the current consideration by the Food and Drug Administration of a proposal to modify the existing standard of identity for ice cream, substituting a protein level of 2.7 percent for the present 10 percent milk solids not fat when accompanied by 10 percent milkfat (20 percent total milk solids). The change would permit the displacement of whole milk solids not fat by whey, whey concentrates, and caseinates in the manufacture of ice cream.

The *Conferees* are disturbed by the proposal before the Food and Drug Administration. The *Conferees* are concerned about the impact the change would have on the dairy price support program, forcing ever-greater purchases of nonfat dry milk by the Commodity Credit Corporation as this product is displaced.

The amendment directs activity by the Secretary of Agriculture to establish a standard of quality for ice cream, and it is evident from the legislative history that Congress is using this means to object strongly to the proposal currently before the Food and Drug Administration to modify the existing standard of identity for ice cream.

BEEKEEPER INDEMNITY PROGRAM (SEC. 207)

The *Senate* bill extends the program under which beekeepers are indemnified for losses sustained as a result of pesticides to December 31, 1982.

The *House* amendment extends the program to September 30, 1981. The *Conference* substitute adopts the *House* amendment.

TITLE III—WOOL AND MOHAIR

(1) *Extension of National Wool Act (Sec. 302)*

The *Senate* bill extends section 703(a) of the National Wool Act of 1954, which requires the Secretary of Agriculture to provide price support for wool and mohair, through December 31, 1982.

The *House* amendment extends section 703(a) through December 31, 1981.

The *Conference* substitute adopts the *House* amendment.

(2) *Shorn Wool—Price Support (Sec. 302)*

The *Senate* bill amends and extends section 703(b), which specifies the method for calculating price support to provide price support on shorn wool from January 1, 1977, to December 31, 1977, at 85 percent of the amount calculated according to the formula specified in the Act, and from January 1, 1978, to December 31, 1982, at 90 percent of the amount calculated according to the formula.

The *House* amendment provides price support from January 1, 1977, to December 31, 1981, at 85 percent of the formula amount for the entire period.

The *Conference* substitute adopts the *House* amendment.

TITLE IV—WHEAT

(1) *Period of Program*

Generally, the *Senate* bill extends and amends the wheat provisions through the 1982 crop, while the *House* amendment extends and amends the provisions through the 1981 crop.

The *Conference* substitute adopts the *House* amendment.

(2) *Wheat Loan Rate—1977 and Beyond (Sec. 401)*

A. The *Senate* bill provides a minimum loan level for the 1977 crop of \$2.25 per bushel. It also provides that the loan and purchase level on each of the 1978 through 1982 crops shall be not less than 85 percent of the cost of production. The cost of production per bushel would be established at \$2.91 for the 1978 crop and would be determined for the 1979 through 1982 crops in accordance with new section 411 of the Agricultural Act of 1970 added by the *Senate* bill. This would result in a minimum loan level of \$2.47 per bushel for the 1978 crop.

The *House* amendment provides for a loan level of not less than \$2.25 per bushel for the 1977 crop and \$2.35 for the 1978 through 1981 crops, and, in the case of the 1977 through 1981 crops, not in excess of 100 percent of parity, as the Secretary of Agriculture determines will maintain the competitive relationship of wheat to other grains in domestic and export markets.

The *Conference* substitute adopts the *House* amendment.

B. The *Senate* bill would prohibit the Secretary from reducing the effective loan level by deductions for storage costs.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

C. The *House* amendment provides that if the average price received by wheat producers is not more than 105 percent of the wheat loan level in any marketing year, the Secretary shall reduce the wheat loan level in the next marketing year as necessary to maintain domestic and export markets for grain.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment to provide that (1) the reduction in the wheat loan level is discretionary with the Secretary, (2) the reduction cannot exceed 10 percent in any year, and (3) the loan level cannot be reduced below \$2.00 per bushel. It is intended by the *Conferees* that if a reduction is made in the loan level for any year, the minimum loan level would "snap back" to \$2.35 per bushel in the succeeding year unless the average price received by producers in the preceding year is not more than 105 percent of the loan level for that year resulting from the reduction.

(3) *Wheat Deficiency Payments for 1978 through 1981 (Sec. 401)*

A. The *Senate* bill provides that the total amount of deficiency payments for the 1978 through 1982 crops would be determined by multiplying the payment rate times the *farm program acreage* times the *farm program yield*.

The *House* amendment provides that the total amount of deficiency payments would be determined by multiplying the payment rate times the *farm acreage allotment* times the *projected farm yield* established for the farm, as adjusted.

The *Conference* substitute adopts the *Senate* provision with respect to the 1978 through 1981 crops.

B. The *Senate* bill provides for a target price per bushel to be used in calculating wheat deficiency and disaster payments as follows: For the 1978 crop—\$3.10 per bushel; and for the 1979 through 1982 crops—the cost of production, but not less than \$3.10 per bushel.

The *House* amendment provides for a target price per bushel for such purposes as follows: For the 1978 crop—\$3.00 per bushel; and for the 1979 through 1981 crops—the target price for the previous year's crop adjusted for changes in the average adjusted cost of production (i.e., variable costs, machinery ownership costs, and general farm overhead costs).

The *Conference* substitute adopts the *House* amendment but provides that the target price for the 1978 crop shall be \$3.05 per bushel if the 1978 crop is 1.8 billion bushels or less and that the base for adjustments for the 1979 crop shall be \$3.00 per bushel.

C. The *House* amendment provides that if the Secretary adjusts the wheat loan level because wheat producers are receiving not more than 105 percent of the wheat loan level, he will provide emergency compensation by increasing the wheat target price to provide the same return to producers as if adjustments in the loan level had not been

made. This increase in target price would not be subject to the payment limitation.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment and clarifies its provisions by making explicit that adjustments will be made in target price *payments* and that such increases in target price *payments* (rather than target prices) would not be subject to the payment limitation.

(4) 1977 Wheat Deficiency Payments (401)

The *House* amendment provides that deficiency payments for the 1977 crop would be made on the farm allotment *but* in no event on a greater acreage than the acreage actually planted to wheat.

The *Senate* bill continues existing law under which deficiency payments would be made on the farm allotment.

The *Conference* substitute provides that deficiency payments would be made on the farm allotment. However, the target price for any acreage within the allotment not actually planted to wheat would be \$2.47 per bushel (the target price established under existing law) instead of \$2.90, the target price otherwise applicable to the 1977 crop as provided in the *Conference* substitute.

(5) Wheat Disaster Payments for 1978 and 1979—Prevented Planting (Sec. 401)

The *Senate* bill provides for prevented planting disaster payments for the 1978 and 1979 crops of wheat on the smaller of (1) the acreage intended to be planted to wheat or (2) the acreage planted for harvest in the preceding year. Payments would be made at a rate determined by multiplying 75 percent of the farm program yield times 33 $\frac{1}{3}$ percent of the established price.

The *House* amendment provides for prevented planting disaster payments for such crops on the smaller of (1) the acreage intended to be planted to wheat or (2) the average acreage planted to wheat for harvest in the immediately preceding *three years*. Payments would be made at a rate determined by multiplying 75 percent of the projected farm yield times 20 percent of the target price.

The *Conference* substitute adopts the *Senate* provision.

(6) Wheat Disaster Payments—Low Yields (Sec. 401)

1978 AND 1979 CROPS

A. The *Senate* bill provides that low yield disaster payments for the 1978 and 1979 crops of wheat will be made if the total quantity of wheat harvested is less than the result of multiplying 75 percent of the farm program yield times the acreage planted to harvest. Payments would be made at a rate equal to 33 $\frac{1}{3}$ percent of the established price for the deficiency in production below 75 percent.

The *House* amendment provides that low yield disaster payments for such crops will be made if the total quantity of wheat harvested is less than the result of multiplying 50 percent of the projected yield established for the farm for the current year times the acreage planted to harvest. Payment would be made at a rate equal to 80 per-

cent of the target price for the deficiency in production below 50 percent of the projected yield on the acreage planted to harvest.

The *Conference* substitute provides that low yield payments would be made at a rate equal to 50 percent of the target price for the deficiency in production below 60 percent of the farm program yield times the acreage planted to harvest.

1977 CROP

B. The *House* amendment provides that for the 1977 crop of wheat low yield disaster payments shall be made as provided in the *House* amendment for the 1978 and 1979 crops of wheat, but such payments shall not be made prior to October 1, 1977. Also, if producers have received low yield disaster payments for the 1977 crop under existing law prior to October 1, 1977, they may retain the payments and the Secretary would be required to pay them any additional amount they would be entitled to under this amendment.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment with an amendment making it clear that any producer could elect to receive low yield disaster payments for the 1977 crop on the basis of the formula provided under existing law. Producers who elect to receive payments under the amendment—and who have already received payments under existing law—could, of course, retain the payments they have received and be paid any additional amount they are entitled to under the amendment.

(7) *Wheat National Program Acreage (Sec. 402)*

The *Senate* bill provides that, if deficiency payments are required, the Secretary would determine a national program acreage.

The *House* amendment provides for a national wheat acreage allotment based on the same factors, such allotment to be proclaimed by August 15 of each calendar year for the following year's crop.

The *Conference* substitute adopts the *House* amendment but (1) uses the term "national program acreage" in lieu of "national wheat acreage allotment" throughout the bill, and (2) provides that the proclamation for the 1978 crop shall be made as soon as practicable after enactment of the bill.

(8) *Wheat Program Acreage Allocation Factor (Sec. 402)*

The *Senate* bill provides that the Secretary shall determine a program allocation factor for wheat by dividing the national program acreage by the number of acres the Secretary estimates will be harvested. The allocation factor could not be less than 90, nor more than 100, percent.

The *House* amendment provides for an allocation factor to be determined by dividing the national wheat allotment by the number of harvested acres each year or in such previous years as determined by the Secretary. The allocation factor could not be less than 80, nor more than 100, percent of the acreage of wheat harvested on the farm during the current year.

The *Conference* substitute adopts the *House* amendment, except that it provides for the allocation factor to be based on the acreage har-

vested in the current year, as in the *Senate* provision. The Secretary could revise the national program acreage proclaimed by August 15 at a later date to reflect more current information for the purpose of calculating the wheat program allocation factor used in making payments to producers. Any such revised national program acreage would not, however, affect the Secretary's obligation to make payments on a producer's entire planted acreage if the producer voluntarily reduced his plantings based on the original proclamation.

(9) *Wheat—Individual Farm Program Acreage (Sec. 402)*

A. The *Senate* bill provides that an individual farm program acreage shall be determined by multiplying the allocation factor by the acreage planted to wheat for harvest.

The *House* amendment provides for farm acreage allotments to be determined by multiplying the allocation factor by the acreage harvested in the current year, or in such previous years as determined by the Secretary. Acreage not harvested because of a condition beyond the producer's control would be considered as harvested.

The *Conference* substitute adopts the *Senate* provision.

B. The *House* amendment provides that if producers voluntarily reduce their planted acreage from the previous year's planted acreage based on the August 15 announcement of the national wheat allotment, or comply with the set-aside, if one is in effect, they would receive target price payments on 100 percent of the harvested wheat acreage. The Secretary is also required to provide equitable treatment to producers on farms where the planted wheat acreage is less than for the preceding year but not sufficient to exempt them from the allocation factor.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment, but deletes the provision that would extend the guarantee to producers who comply with the set-aside program, if one is in effect for wheat.

(10) *Wheat Farm Program Payment Yield (Sec. 402)*

The *Senate* bill provides that the farm program payment yield for each crop of wheat shall be the yield established for the farm for the previous crop year, as adjusted. If no payment yield for wheat was established for the farm for the previous year, the Secretary would be authorized to determine such yield as he finds fair and reasonable. The Secretary would be required, notwithstanding these provisions, to take into account actual yields proved by the producer. The Secretary would also be authorized to establish national, State, and county program payment yields, if necessary, on the basis of historical yields, as adjusted. If national, State, or county yields are established, the farm program payment yields shall balance to them.

The *House* amendment uses projected yields, as adjusted, for payment purposes—the same as under current law. Projected yields are determined based on harvested yields in the five preceding years, as adjusted, with provision for the Secretary to take into account actual yields proved by the producer for the base period.

The *Conference* substitute adopts the *Senate* provision, but provides that the farm program payment yield established on the basis of actual yields shall not be reduced under other provisions of the subsection.

(11) *Wheat Set-Aside (Sec. 402)*

A. The *Senate* bill requires a set-aside if the wheat carryover at the end of a marketing year exceeds 175 percent of domestic use for such year.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

B. The *Senate* bill provides that if the Secretary establishes a set-aside of cropland, then as a condition of eligibility for loans, purchases, and payments, producers must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage of the cropland planted to wheat in the preceding year.

The *House* amendment provides that if a set-aside is in effect, then as a condition of eligibility for loans, purchases, and payments, producers must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage of the acreage planted to wheat in the preceding year, as adjusted, or in the current year.

The *Conference* substitute adopts the *House* amendment with an amendment (1) providing for the set-aside to be based on a specified percentage of the acreage planted to wheat in the current year and (2) authorizing the Secretary to make adjustments in individual set-aside acreages to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop-rotation practices, types of soil, and other factors he deems necessary.

C. The *Senate* bill authorizes the Secretary, as a condition of any wheat set-aside program, to limit the acreage planted in wheat.

The *House* amendment authorizes the Secretary to limit the acreage planted to wheat to a percentage of the planted acreage in the previous crop year and requires the limitation to be applied on a uniform basis to all wheat producing farms. Section 912 of the *House* amendment also authorizes the Secretary as a condition of eligibility for loans, purchases and payments, if a wheat set-aside is in effect, to require that acreage normally planted to crops designated by the Secretary shall be reduced by the acreage of set-aside or diversion.

The *Conference* substitute adopts the *Senate* provision and section 912 of the *House* amendment (section 1001 of the *Conference* substitute).

D. The *House* amendment requires the set-aside to be announced by August 15 for the next year's crop.

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* amendment, with an amendment to provide that the announcement for the 1978 crop shall be made as soon as practicable after enactment of the bill.

(12) *Use of Set-Aside Wheat Acreage (Sec. 402)*

The *Senate* bill authorizes the Secretary to permit producers to graze or harvest hay from the wheat set-aside.

The *House* amendment retains provisions of current law under which the Secretary would, in addition, be required to permit planting or grazing of sweet sorghum and be authorized to permit grazing or planting of other commodities if he determines that such production is needed to provide an adequate supply, is not likely to increase the

cost of the price support program, and will not adversely affect farm income.

The *Conference* substitute adopts the *House* amendment with an amendment authorizing the Secretary to permit, subject to such terms and conditions as he may prescribe (such as an adjustment in the payment rate), all or any of the set-aside to be devoted to sweet sorghum, haying or grazing or the production of specified crops if he makes the determinations provided for in the *House* amendment. (Comparable provisions apply to feed grains, upland cotton, and rice.)

(13) *Wheat Acreage Diversion Payments (Sec. 402)*

The *Senate* bill provides that the Secretary is authorized to make land diversion payments for the 1978 through 1982 crops in accordance with land diversion contracts whether or not a wheat set-aside is in effect. The amounts payable under the contracts may be determined through a bid procedure, or through such other means as the Secretary deems appropriate.

The *House* amendment extends current law under which the Secretary is authorized to make land diversion payments to producers who devote to approved conservation uses an acreage of cropland in addition to acreage otherwise required to be set aside. The land diversion payments are to be set at such rates as the Secretary determines to be fair and reasonable.

The *Conference* substitute adopts the *Senate* provision for the 1978 through 1981 crops.

(14) *Protection of Set-Aside Wheat Acreage (Sec. 402)*

A. The *Senate* bill requires that the set-aside acreage be devoted to conservation uses in accordance with regulations issued by the Secretary which will assure protection of set-aside acreage from wind and water erosion.

The *House* amendment extends through 1981 the authority for the Secretary to require that producers take the necessary measures to protect the set-aside acreage and diverted acreage from erosion, insects, weeds, and rodents.

The *Conference* substitute adopts the *Senate* provision with an amendment to require protection of the set-aside acreage from weeds.

B. The *House* amendment authorizes the Secretary to make additional payments to producers who permit, without other compensation, public access to all or part of their farm, for recreational purposes. The *House* amendment also authorizes cost-share payments for wildlife practices.

The *Senate* bill contains a related provision under which the Secretary may enter into public access contracts with any producer.

The *Conference* substitute adopts the *House* amendment.

(15) *Extension of Allotment Provision*

Section 378 and section 379 of the Agricultural Adjustment Act of 1938 set out provisions relating to the reestablishment and transfer of allotments in connection with eminent domain and the reconstitution of farms, respectively. The *House* amendment extends the applicability of these sections to wheat allotments through the 1981 crop.

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* amendment.

(16) *CCC Sales Price Restrictions for Wheat and Feed Grains*
(Sec. 408)

The *Senate* bill extends through 1982 section 407 of the Agricultural Act of 1949, as amended, for the 1971 and later crops, which requires that CCC stocks of wheat, corn, grain sorghum, barley, oats, and rye not be sold at less than 115 percent of the current national average loan rate, excepting certain sales and dispositions of such stocks. The *Senate* bill provides that whenever the extended loan program authorized by the bill (grain reserves) is in effect, a different sales price restriction shall apply.

The *House* amendment contains two sections—one relating to extended loans and the other to reserves—both of which would require that wheat, corn, barley, rye, oats, or sorghum owned or controlled by the CCC not be sold for less than 150 percent of the current loan level, except for sales of commodities which are deteriorated or in danger of deterioration, dispositions in acute distress areas and in areas of major disaster, dispositions under the Act of September 21, 1959, to provide livestock feed in emergency areas, and under section 813 of the Agricultural Act of 1970, which provides for a disaster reserve of CCC-acquired inventories.

The *Conference* substitute adopts the *Senate* provision through 1981.

(17) *Cost of Production* (Sec. 402)

The *Senate* bill requires the Secretary to determine for each of the 1979 through 1982 crops of wheat, corn, and upland cotton the cost of production based upon charges for direct or variable costs, overhead costs, management costs, and a charge for land based on a composite using share rent, cash rent, and average acquisition value. These criteria are used in the establishment of loan and payment rates. The *Senate* bill also provides that yields used in determining per unit costs shall be based on the most recent five-year weighted national average harvested yields for wheat and cotton and the most recent five-year weighted national average yields of corn harvested for grain.

The *House* amendment provides that the target price for the 1979–1981 crops of wheat would be adjusted to reflect changes in variable costs, machinery ownership costs, and an allocation of general farm overhead costs, in the past two years as compared with the two-year period immediately preceding the year previous to the one for which the determination is made.

The *Conference* substitute adopts the *House* amendment.

(18) *International Agreement on Wheat Prices*

The *Senate* bill provides that it is the sense of Congress that the President continue to negotiate agreements with major exporting and importing countries to establish a mutual minimum world price for wheat at no less than the cost of production in the United States, adjusted to reflect transportation costs.

The *House* amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.