

Public Law 106-224
106th Congress

An Act

June 20, 2000
[H.R. 2559]

Agricultural Risk
Protection Act of
2000.

7 USC 1501 note.

To amend the Federal Crop Insurance Act to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improved protection from production and income loss, to improve the efficiency and integrity of the Federal crop insurance program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Agricultural Risk Protection Act of 2000”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

TITLE I—CROP INSURANCE COVERAGE

SUBTITLE A—CROP INSURANCE COVERAGE

- Sec. 101. Premium schedule for additional coverage.
- Sec. 102. Premium schedule for other plans of insurance.
- Sec. 103. Catastrophic risk protection.
- Sec. 104. Administrative fee for additional coverage.
- Sec. 105. Assigned yields and actual production history adjustments.
- Sec. 106. Review and adjustment in rating methodologies.
- Sec. 107. Quality adjustment.
- Sec. 108. Double insurance and prevented planting.
- Sec. 109. Noninsured crop disaster assistance program.

SUBTITLE B—IMPROVING PROGRAM INTEGRITY

- Sec. 121. Improving program compliance and integrity.
- Sec. 122. Protection of confidential information.
- Sec. 123. Good farming practices.
- Sec. 124. Records and reporting.

SUBTITLE C—RESEARCH AND PILOT PROGRAMS

- Sec. 131. Research and development.
- Sec. 132. Pilot programs.
- Sec. 133. Education and risk management assistance.
- Sec. 134. Options pilot program.

SUBTITLE D—ADMINISTRATION

- Sec. 141. Relation to other laws.
- Sec. 142. Management of Corporation.
- Sec. 143. Contracting for rating of plans of insurance.
- Sec. 144. Electronic availability of crop insurance information.
- Sec. 145. Adequate coverage for States.
- Sec. 146. Submission of policies and materials to Board.
- Sec. 147. Funding.
- Sec. 148. Standard Reinsurance Agreement.

SUBTITLE E—MISCELLANEOUS

- Sec. 161. Limitation on revenue coverage for potatoes.
- Sec. 162. Crop insurance coverage for cotton and rice.

- Sec. 163. Indemnity payments for certain producers.
- Sec. 164. Sense of the Congress regarding the Federal crop insurance program.
- Sec. 165. Sense of the Congress on rural America, including minority and limited-resource farmers.

SUBTITLE F—EFFECTIVE DATES AND IMPLEMENTATION

- Sec. 171. Effective dates.
- Sec. 172. Regulations.
- Sec. 173. Savings clause.

TITLE II—AGRICULTURAL ASSISTANCE

SUBTITLE A—MARKET LOSS ASSISTANCE

- Sec. 201. Market loss assistance.
- Sec. 202. Oilseeds.
- Sec. 203. Specialty crops.
- Sec. 204. Other commodities.
- Sec. 205. Payments in lieu of loan deficiency payments.
- Sec. 206. Expansion of producers eligible for loan deficiency payments.

SUBTITLE B—CONSERVATION

- Sec. 211. Conservation assistance.
- Sec. 212. Condition on development of Little Darby National Wildlife Refuge, Ohio.

SUBTITLE C—RESEARCH

- Sec. 221. Carbon cycle research.
- Sec. 222. Tobacco research for medicinal purposes.
- Sec. 223. Research on soil science and forest health management.
- Sec. 224. Research on waste streams from livestock production.
- Sec. 225. Improved storage and management of livestock and poultry waste.
- Sec. 226. Ethanol research pilot plant.
- Sec. 227. Bioinformatics Institute for Model Plant Species.

SUBTITLE D—AGRICULTURAL MARKETING

- Sec. 231. Value-added agricultural product market development grants.

SUBTITLE E—NUTRITION PROGRAMS

- Sec. 241. Calculation of minimum amount of commodities for school lunch requirements.
- Sec. 242. School lunch data.
- Sec. 243. Child and adult care food program integrity.
- Sec. 244. Adjustments to WIC program.

SUBTITLE F—OTHER PROGRAMS

- Sec. 251. Authority to provide loan in connection with boll weevil eradication.
- Sec. 252. Animal disease control.
- Sec. 253. Emergency loans for seed producers.
- Sec. 254. Temporary suspension of authority to combine certain offices.
- Sec. 255. Farm operating loan eligibility.
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- Sec. 257. Crop and pasture flood compensation program.
- Sec. 258. Flood mitigation near Pierre, South Dakota.
- Sec. 259. Restoration of eligibility for crop loss assistance.

SUBTITLE G—ADMINISTRATION

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SUBTITLE B—INSPECTION AND ENFORCEMENT

- Sec. 421. Inspections, seizures, and warrants.
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- Sec. 431. Cooperation.
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TITLE V—INSPECTION ANIMALS

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- Sec. 502. Subpoena authority.

TITLE I—CROP INSURANCE

Subtitle A—Crop Insurance Coverage

SEC. 101. PREMIUM SCHEDULE FOR ADDITIONAL COVERAGE.

(a) EXPECTED MARKET PRICE.—Section 508(c) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)) is amended by striking paragraph (5) and inserting the following:

“(5) EXPECTED MARKET PRICE.—

“(A) ESTABLISHMENT OR APPROVAL.—For the purposes of this title, the Corporation shall establish or approve the price level (referred to in this title as the ‘expected market price’) of each agricultural commodity for which insurance is offered.

“(B) GENERAL RULE.—Except as otherwise provided in subparagraph (C), the expected market price of an agricultural commodity shall be not less than the projected market price of the agricultural commodity, as determined by the Corporation.

“(C) OTHER AUTHORIZED APPROACHES.—The expected market price of an agricultural commodity—

“(i) may be based on the actual market price of the agricultural commodity at the time of harvest, as determined by the Corporation;

“(ii) in the case of revenue and other similar plans of insurance, may be the actual market price of the agricultural commodity, as determined by the Corporation;

“(iii) in the case of cost of production or similar plans of insurance, shall be the projected cost of producing the agricultural commodity, as determined by the Corporation; or

“(iv) in the case of other plans of insurance, may be an appropriate amount, as determined by the Corporation.”

(b) PREMIUM AMOUNTS.—Section 508(d) of the Federal Crop Insurance Act (7 U.S.C. 1508(d)) is amended—

(1) in paragraph (2), by striking subparagraphs (B) and (C) and inserting the following:

“(B) In the case of additional coverage equal to or greater than 50 percent of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount of the premium shall—

“(i) be sufficient to cover anticipated losses and a reasonable reserve; and

“(ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio.”; and

(2) by adding at the end the following:

“(3) PERFORMANCE-BASED DISCOUNT.—The Corporation may provide a performance-based premium discount for a producer of an agricultural commodity who has good insurance or production experience relative to other producers of that agricultural commodity in the same area, as determined by the Corporation.”

(c) PAYMENT SCHEDULE.—Section 508(e)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)(2)) is amended—

(1) in the matter preceding the subparagraphs, by striking “The amount” and inserting “Subject to paragraph (4), the amount”; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

“(B) In the case of additional coverage equal to or greater than 50 percent, but less than 55 percent, of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount shall be equal to the sum of—

“(i) 67 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

“(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

“(C) In the case of additional coverage equal to or greater than 55 percent, but less than 65 percent, of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount shall be equal to the sum of—

“(i) 64 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

“(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

“(D) In the case of additional coverage equal to or greater than 65 percent, but less than 75 percent, of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount shall be equal to the sum of—

“(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

“(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

“(E) In the case of additional coverage equal to or greater than 75 percent, but less than 80 percent, of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount shall be equal to the sum of—

“(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

“(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

“(F) In the case of additional coverage equal to or greater than 80 percent, but less than 85 percent, of the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount shall be equal to the sum of—

“(i) 48 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

“(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

“(G) Subject to subsection (c)(4), in the case of additional coverage equal to or greater than 85 percent of

the recorded or appraised average yield indemnified at not greater than 100 percent of the expected market price, or a comparable coverage for a policy or plan of insurance that is not based on individual yield, the amount shall be equal to the sum of—

“(i) 38 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

“(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.”.

(d) TEMPORARY PROHIBITION ON CONTINUOUS COVERAGE.—Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) is amended by striking paragraph (4) and inserting the following:

“(4) TEMPORARY PROHIBITION ON CONTINUOUS COVERAGE.—Notwithstanding paragraph (2), during each of the 2001 through 2005 reinsurance years, additional coverage under subsection (c) shall be available only in 5 percent increments beginning at 50 percent of the recorded or appraised average yield.”.

(e) PREMIUM PAYMENT DISCLOSURE.—Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) is amended by adding at the end the following:

“(5) PREMIUM PAYMENT DISCLOSURE.—Each policy or plan of insurance under this title shall prominently indicate the dollar amount of the portion of the premium paid by the Corporation.”.

(f) CONFORMING AMENDMENT.—Section 508(g)(2)(D) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(2)(D)) is amended by striking “(as provided in subsection (e)(4))”.

SEC. 102. PREMIUM SCHEDULE FOR OTHER PLANS OF INSURANCE.

(a) PREMIUM SCHEDULE.—Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended—

(1) in paragraph (2), by striking the second sentence; and

(2) by striking paragraph (5) and inserting the following:

“(5) PREMIUM SCHEDULE.—

“(A) PAYMENT BY CORPORATION.—In the case of a policy or plan of insurance developed and approved under this subsection or section 522, or conducted under section 523 (other than a policy or plan of insurance applicable to livestock), the Corporation shall pay a portion of the premium of the policy or plan of insurance that is equal to—

“(i) the percentage, specified in subsection (e) for a similar level of coverage, of the total amount of the premium used to define loss ratio; and

“(ii) an amount for administrative and operating expenses determined in accordance with subsection (k)(4).

“(B) TRANSITIONAL SCHEDULE.—Effective only during the 2001 reinsurance year, in the case of a policy or plan of insurance developed and approved under this subsection or section 522, or conducted under section 523 (other than a policy or plan of insurance applicable to livestock), and first approved by the Board after the date of the enactment of this subparagraph, the payment by the Corporation of

a portion of the premium of the policy may not exceed the dollar amount that would otherwise be authorized under subsection (e) (consistent with subsection (c)(5), as in effect on the day before the date of the enactment of this subparagraph).”.

(b) **REIMBURSEMENT RATE.**—Section 508(k)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(4)) is amended by adding at the end the following:

“(C) **OTHER REDUCTIONS.**—Beginning with the 2002 reinsurance year, in the case of a policy or plan of insurance approved by the Board that was not reinsured during the 1998 reinsurance year but, had it been reinsured, would have received a reduced rate of reimbursement during the 1998 reinsurance year, the rate of reimbursement for administrative and operating costs established for the policy or plan of insurance shall take into account the factors used to determine the rate of reimbursement for administrative and operating costs during the 1998 reinsurance year, including the expected difference in premium and actual administrative and operating costs of the policy or plan of insurance relative to an individual yield policy or plan of insurance and other appropriate factors, as determined by the Corporation.”.

SEC. 103. CATASTROPHIC RISK PROTECTION.

(a) **ALTERNATIVE COVERAGE.**—Section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is amended by striking paragraph (3) and inserting the following:

“(3) **ALTERNATIVE CATASTROPHIC COVERAGE.**—Beginning with the 2001 crop year, the Corporation shall offer producers of an agricultural commodity the option of selecting either of the following:

“(A) The catastrophic risk protection coverage available under paragraph (2)(A).

“(B) An alternative catastrophic risk protection coverage that—

“(i) indemnifies the producer on an area yield and loss basis if such a policy or plan of insurance is offered for the agricultural commodity in the county in which the farm is located;

“(ii) provides, on a uniform national basis, a higher combination of yield and price protection than the coverage available under paragraph (2)(A); and

“(iii) the Corporation determines is comparable to the coverage available under paragraph (2)(A) for purposes of subsection (e)(2)(A).”.

(b) **ADMINISTRATIVE FEE.**—

(1) **REVISED FEE.**—Section 508(b)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)) is amended—

(A) in subparagraph (A), by striking “\$50” and inserting “\$100”;

(B) by striking subparagraph (B); and

(C) in subparagraph (C), by striking “amounts required under subparagraphs (A) and (B)” and inserting “administrative fee required by this paragraph”.

(2) **CONFORMING AMENDMENT.**—Section 748 of the Agriculture, Rural Development, Food and Drug Administration,

and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105-277; 7 U.S.C. 1508 note), is amended by striking “\$50” and inserting “\$100”.

(c) PAYMENT OF ADMINISTRATIVE FEE ON BEHALF OF PRODUCERS.—Section 508(b)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)), as amended by subsection (b)(1)(B), is amended by inserting after subparagraph (A) the following:

“(B) PAYMENT ON BEHALF OF PRODUCERS.—

“(i) PAYMENT AUTHORIZED.—If State law permits a licensing fee or other payment to be paid by an insurance provider to a cooperative association or trade association and rebated to a producer with catastrophic risk protection or additional coverage, a cooperative association or trade association located in that State may pay, on behalf of a member of the association in that State or a contiguous State who consents to be insured under such an arrangement, all or a portion of the administrative fee required by this paragraph for catastrophic risk protection.

“(ii) TREATMENT OF LICENSING FEES.—A licensing fee or other payment made by an insurance provider to the cooperative association or trade association in connection with the issuance of catastrophic risk protection or additional coverage to members of the cooperative association or trade association shall be subject to the laws regarding rebates of the State in which the fee or other payment is made.

“(iii) SELECTION OF PROVIDER.—Nothing in this subparagraph limits the option of a producer to select the licensed insurance agent or other approved insurance provider from whom the producer will purchase a policy or plan of insurance or to refuse coverage for which a payment is offered to be made under clause (i).

“(iv) DELIVERY OF INSURANCE.—A policy or plan of insurance for which a payment is made under clause (i) shall be delivered by a licensed insurance agent or other approved insurance provider.

“(v) ADDITIONAL COVERAGE ENCOURAGED.—A cooperative association or trade association, and any approved insurance provider with whom a licensing fee or other arrangement under this subparagraph is made, shall encourage producer members to purchase appropriate levels of additional coverage in order to meet the risk management needs of the member producers.

“(vi) REPORT.—Not later than April 1, 2002, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates—

Deadline.

“(I) the operation of this subparagraph; and

“(II) the impact of this subparagraph on participation in the Federal crop insurance program, including the impact on levels of coverage purchased.”.

(d) REIMBURSEMENT RATE CHANGE.—Section 508(b)(11) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(11)) is amended by striking “11 percent” and inserting “8 percent”.

SEC. 104. ADMINISTRATIVE FEE FOR ADDITIONAL COVERAGE.

Section 508(c) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)) is amended by striking paragraph (10) and inserting the following:

“(10) ADMINISTRATIVE FEE.—

“(A) FEE REQUIRED.—If a producer elects to purchase coverage for a crop at a level in excess of catastrophic risk protection, the producer shall pay an administrative fee for the additional coverage of \$30 per crop per county.

“(B) USE OF FEES; WAIVER.—Subparagraphs (D) and (E) of subsection (b)(5) shall apply with respect to the collection and use of administrative fees under this paragraph.”.

SEC. 105. ASSIGNED YIELDS AND ACTUAL PRODUCTION HISTORY ADJUSTMENTS.

(a) ASSIGNED YIELDS.—Section 508(g)(2)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(2)(B)) is amended—

(1) by striking “assigned a yield” and inserting “assigned—
“(i) a yield”;

(2) by striking the period at the end and inserting “; or”;
and

(3) by adding at the end the following:

“(ii) a yield determined by the Corporation, in the case of—

“(I) a producer that has not had a share of the production of the insured crop for more than two crop years, as determined by the Secretary;

“(II) a producer that produces an agricultural commodity on land that has not been farmed by the producer; or

“(III) a producer that rotates a crop produced on a farm to a crop that has not been produced on the farm.”.

(b) ACTUAL PRODUCTION HISTORY ADJUSTMENTS.—Section 508(g) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)) is amended by adding at the end the following:

“(4) ADJUSTMENT IN ACTUAL PRODUCTION HISTORY TO ESTABLISH INSURABLE YIELDS.—

“(A) APPLICATION.—This paragraph shall apply whenever the Corporation uses the actual production records of the producer to establish the producer’s actual production history for an agricultural commodity for any of the 2001 and subsequent crop years.

“(B) ELECTION TO USE PERCENTAGE OF TRANSITIONAL YIELD.—If, for one or more of the crop years used to establish the producer’s actual production history of an agricultural commodity, the producer’s recorded or appraised yield of the commodity was less than 60 percent of the applicable transitional yield, as determined by the Corporation, the Corporation shall, at the election of the producer—

“(i) exclude any of such recorded or appraised yield;
and

“(ii) replace each excluded yield with a yield equal to 60 percent of the applicable transitional yield.

“(C) PREMIUM ADJUSTMENT.—In the case of a producer that makes an election under subparagraph (B), the Corporation shall adjust the premium to reflect the risk associated with the adjustment made in the actual production history of the producer.

“(5) ADJUSTMENT TO REFLECT INCREASED YIELDS FROM SUCCESSFUL PEST CONTROL EFFORTS.—

“(A) SITUATIONS JUSTIFYING ADJUSTMENT.—The Corporation shall develop a methodology for adjusting the actual production history of a producer when each of the following apply:

“(i) The producer’s farm is located in an area where systematic, area-wide efforts have been undertaken using certain operations or measures, or the producer’s farm is a location at which certain operations or measures have been undertaken, to detect, eradicate, suppress, or control, or at least to prevent or retard the spread of, a plant disease or plant pest, including a plant pest (as defined in section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a)).

“(ii) The presence of the plant disease or plant pest has been found to adversely affect the yield of the agricultural commodity for which the producer is applying for insurance.

“(iii) The efforts described in clause (i) have been effective.

“(B) ADJUSTMENT AMOUNT.—The amount by which the Corporation adjusts the actual production history of a producer of an agricultural commodity shall reflect the degree to which the success of the systematic, area-wide efforts described in subparagraph (A), on average, increases the yield of the commodity on the producer’s farm, as determined by the Corporation.”.

SEC. 106. REVIEW AND ADJUSTMENT IN RATING METHODOLOGIES.

Section 508(i) of the Federal Crop Insurance Act (7 U.S.C. 1508(i)) is amended—

(1) by striking “The Corporation” and inserting the following:

“(1) IN GENERAL.—The Corporation”; and

(2) by adding at the end the following:

“(2) REVIEW OF RATING METHODOLOGIES.—To maximize participation in the Federal crop insurance program and to ensure equity for producers, the Corporation shall periodically review the methodologies employed for rating plans of insurance under this title consistent with section 507(c)(2).

“(3) ANALYSIS OF RATING AND LOSS HISTORY.—The Corporation shall analyze the rating and loss history of approved policies and plans of insurance for agricultural commodities by area.

“(4) PREMIUM ADJUSTMENT.—If the Corporation makes a determination that premium rates are excessive for an agricultural commodity in an area relative to the requirements of subsection (d)(2) for that area, then, for the 2002 crop year (and as necessary thereafter), the Corporation shall make

appropriate adjustments in the premium rates for that area for that agricultural commodity.”.

SEC. 107. QUALITY ADJUSTMENT.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended by striking subsection (m) and inserting the following:

“(m) QUALITY LOSS ADJUSTMENT COVERAGE.—

“(1) EFFECT OF COVERAGE.—If a policy or plan of insurance offered under this title includes quality loss adjustment coverage, the coverage shall provide for a reduction in the quantity of production of the agricultural commodity considered produced during a crop year, or a similar adjustment, as a result of the agricultural commodity not meeting the quality standards established in the policy or plan of insurance.

“(2) ADDITIONAL QUALITY LOSS ADJUSTMENT.—

“(A) PRODUCER OPTION.—Notwithstanding any other provision of law, in addition to the quality loss adjustment coverage available under paragraph (1), the Corporation shall offer producers the option of purchasing quality loss adjustment coverage on a basis that is smaller than a unit with respect to an agricultural commodity that satisfies each of the following:

“(i) The agricultural commodity is sold on an identity-preserved basis.

“(ii) All quality determinations are made solely by the Federal agency designated to grade or classify the agricultural commodity.

“(iii) All quality determinations are made in accordance with standards published by the Federal agency in the Federal Register.

“(iv) The discount schedules that reflect the reduction in quality of the agricultural commodity are established by the Secretary.

“(B) BASIS FOR ADJUSTMENT.—Under this paragraph, the Corporation shall set the quality standards below which quality losses will be paid based on the variability of the grade of the agricultural commodity from the base quality for the agricultural commodity.

“(3) REVIEW OF CRITERIA AND PROCEDURES.—The Corporation shall contract with a qualified person to review the quality loss adjustment procedures of the Corporation so that the procedures more accurately reflect local quality discounts that are applied to agricultural commodities insured under this title. Based on the review, the Corporation shall make adjustments in the procedures, taking into consideration the actuarial soundness of the adjustment and the prevention of fraud, waste, and abuse.”.

SEC. 108. DOUBLE INSURANCE AND PREVENTED PLANTING.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended by inserting after section 508 (7 U.S.C. 1508) the following:

“SEC. 508A. DOUBLE INSURANCE AND PREVENTED PLANTING.

“(a) DEFINITIONS.—In this section:

“(1) FIRST CROP.—The term ‘first crop’ means the first crop of the first agricultural commodity planted for harvest, or prevented from being planted, on specific acreage during a crop year and insured under this title.

"(2) SECOND CROP.—The term 'second crop' means a second crop of the same agricultural commodity as the first crop, or a crop of a different agricultural commodity following the first crop, planted on the same acreage as the first crop for harvest in the same crop year, except the term does not include a replanted crop.

"(3) REPLANTED CROP.—The term 'replanted crop' means any agricultural commodity replanted on the same acreage as the first crop for harvest in the same crop year if the replanting is required by the terms of the policy of insurance covering the first crop.

"(b) DOUBLE INSURANCE.—

"(1) OPTIONS ON LOSS TO FIRST CROP.—Except as provided in subsections (d) and (e), if a first crop insured under this title in a crop year has a total or partial insurable loss, the producer of the first crop may elect one of the following options:

"(A) NO SECOND CROP PLANTED.—The producer may—

"(i) elect to not plant a second crop on the same acreage for harvest in the same crop year; and

"(ii) collect an indemnity payment that is equal to 100 percent of the insurable loss for the first crop.

"(B) SECOND CROP PLANTED.—The producer may—

"(i) plant a second crop on the same acreage for harvest in the same crop year; and

"(ii) collect an indemnity payment established by the Corporation for the first crop, but not to exceed 35 percent of the insurable loss for the first crop.

"(2) EFFECT OF NO LOSS TO SECOND CROP.—If a producer makes an election under paragraph (1)(B) and the producer does not suffer an insurable loss to the second crop, the producer may collect an indemnity payment for the first crop that is equal to—

"(A) 100 percent of the insurable loss for the first crop; less

"(B) the amount previously collected under paragraph (1)(B)(ii).

"(3) PREMIUM FOR FIRST CROP IF SECOND CROP PLANTED.—

"(A) INITIAL PREMIUM.—If a producer makes an election under paragraph (1)(B), the producer shall be responsible for a premium for the first crop that is commensurate with the indemnity paid under paragraph (1)(B)(ii). The Corporation shall adjust the total premium for the first crop to reflect the reduced indemnity.

"(B) EFFECT OF NO LOSS TO SECOND CROP.—If the producer makes an election under paragraph (1)(B) and the producer does not suffer an insurable loss to the second crop, the producer shall be responsible for a premium for the first crop that is equal to—

"(i) the full premium owed by the producer for the first crop; less

"(ii) the amount of premium previously paid under subparagraph (A).

"(c) PREVENTED PLANTING COVERAGE.—

"(1) OPTIONS ON LOSS TO FIRST CROP.—Except as provided in subsections (d) and (e), if a first crop insured under this title in a crop year is prevented from being planted, the producer of the first crop may elect one of the following options:

“(A) NO SECOND CROP PLANTED.—The producer may—
 “(i) elect to not plant a second crop on the same acreage for harvest in the same crop year; and

“(ii) subject to paragraph (4), collect an indemnity payment that is equal to 100 percent of the prevented planting guarantee for the acreage for the first crop.

“(B) SECOND CROP PLANTED.—The producer may—

“(i) plant a second crop on the same acreage for harvest in the same crop year; and

“(ii) subject to paragraphs (4) and (5), collect an indemnity payment established by the Corporation for the first crop, but not to exceed 35 percent of the prevented planting guarantee for the acreage for the first crop.

“(2) PREMIUM FOR FIRST CROP IF SECOND PLANTED.—If the producer makes an election under paragraph (1)(B), the producer shall pay a premium for the first crop that is commensurate with the indemnity paid under paragraph (1)(B)(ii). The Corporation shall adjust the total premium for the first crop to reflect the reduced indemnity.

“(3) EFFECT ON ACTUAL PRODUCTION HISTORY.—Except in the case of double cropping described in subsection (d), if a producer make an election under paragraph (1)(B) for a crop year, the Corporation shall assign the producer a recorded yield for that crop year for the first crop equal to 60 percent of the producer’s actual production history for the agricultural commodity involved, for purposes of determining the producer’s actual production history for subsequent crop years.

“(4) AREA CONDITIONS REQUIRED FOR PAYMENT.—The Corporation shall limit prevented planting payments for producers to those situations in which other producers, in the area where a first crop is prevented from being planted is located, are also generally affected by the conditions that prevented the first crop from being planted.

“(5) PLANTING DATE.—If a producer plants the second crop before the latest planting date established by the Corporation for the first crop, the Corporation shall not make a prevented planting payment with regard to the first crop.

“(d) EXCEPTION FOR ESTABLISHED DOUBLE CROPPING PRACTICES.—A producer may receive full indemnity payments on two or more crops planted for harvest in the same crop year and insured under this title if each of the following conditions are met:

“(1) There is an established practice of planting two or more crops for harvest in the same crop year in the area, as determined by the Corporation.

“(2) An additional coverage policy or plan of insurance is offered with respect to the agricultural commodities planted on the same acreage for harvest in the same crop year in the area.

“(3) The producer has a history of planting two or more crops for harvest in the same crop year or the applicable acreage has historically had two or more crops planted for harvest in the same crop year.

“(4) The second or more crops are customarily planted after the first crop for harvest on the same acreage in the same year in the area.

“(e) **SUBSEQUENT CROPS.**—Except in the case of double cropping described in subsection (d), if a producer elects to plant a crop (other than a replanted crop) subsequent to a second crop on the same acreage as the first crop and second crop for harvest in the same crop year, the producer shall not be eligible for insurance under this title, or noninsured crop assistance under section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333), for the subsequent crop.”.

SEC. 109. NONINSURED CROP DISASTER ASSISTANCE PROGRAM.

(a) **OPERATION AND ADMINISTRATION OF PROGRAM.**—Section 196(a)(2) of the Agricultural Market Transition Act (7 U.S.C. 7333(a)(2)) is amended by adding at the end the following:

“(C) **COMBINATION OF SIMILAR TYPES OR VARIETIES.**—

At the option of the Secretary, all types or varieties of a crop or commodity, described in subparagraphs (A) and (B), may be considered to be a single eligible crop under this section.”.

(b) **TIMELY APPLICATION.**—Section 196(b)(1) of the Agricultural Market Transition Act (7 U.S.C. 7333(b)(1)) is amended in the second sentence by striking “at such time as the Secretary may require” and inserting “not later than 30 days before the beginning of the coverage period, as determined by the Secretary”.

(c) **RECORDS AND REPORTS.**—Section 196(b) of the Agricultural Market Transition Act (7 U.S.C. 7333(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) **RECORDS.**—To be eligible for assistance under this section, a producer shall provide annually to the Secretary records of crop acreage, acreage yields, and production for each crop, as required by the Secretary.”; and

(2) in paragraph (3), by inserting “annual” after “shall provide”.

(d) **LOSS REQUIREMENTS.**—Section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333) is amended by striking subsection (c) and inserting the following:

“(c) **LOSS REQUIREMENTS.**—

“(1) **CAUSE.**—To be eligible for assistance under this section, a producer of an eligible crop shall have suffered a loss of a noninsured commodity as the result of a cause described in subsection (a)(3).

“(2) **ASSISTANCE.**—On making a determination described in subsection (a)(3), the Secretary shall provide assistance under this section to producers of an eligible crop that have suffered a loss as a result of the cause described in subsection (a)(3).

“(3) **PREVENTED PLANTING.**—Subject to paragraph (1), the Secretary shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

“(4) **AREA TRIGGER.**—The Secretary shall provide assistance to individual producers without any requirement of an area loss.”.

(e) **SERVICE FEE.**—Section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333) is amended by adding at the end the following:

“(k) SERVICE FEE.—

“(1) IN GENERAL.—To be eligible to receive assistance for an eligible crop for a crop year under this section, a producer shall pay to the Secretary (at the time at which the producer submits the application under subsection (b)(1)) a service fee for the eligible crop in an amount that is equal to the lesser of—

“(A) \$100 per crop per county; or

“(B) \$300 per producer per county, but not to exceed a total of \$900 per producer.

“(2) WAIVER.—The Secretary shall waive the service fee required under paragraph (1) in the case of a limited resource farmer, as defined by the Secretary.

“(3) USE.—The Secretary shall deposit service fees collected under this subsection in the Commodity Credit Corporation Fund.”.

Subtitle B—Improving Program Integrity

SEC. 121. IMPROVING PROGRAM COMPLIANCE AND INTEGRITY.

(a) ADDITIONAL METHODS OF ENSURING PROGRAM COMPLIANCE AND INTEGRITY.—Section 515 of the Federal Crop Insurance Act (7 U.S.C. 1514) is amended to read as follows:

“SEC. 515. PROGRAM COMPLIANCE AND INTEGRITY.

“(a) PURPOSE.—

“(1) IN GENERAL.—The purpose of this section is to improve compliance with, and the integrity of, the Federal crop insurance program.

“(2) ROLE OF INSURANCE PROVIDERS.—The Corporation shall work actively with approved insurance providers to address program compliance and integrity issues as such issues develop.

“(b) NOTIFICATION OF COMPLIANCE PROBLEMS.—

“(1) NOTIFICATION OF ERRORS, OMISSIONS, AND FAILURES.—The Corporation shall notify in writing an approved insurance provider of any error, omission, or failure to follow Corporation regulations or procedures for which the approved insurance provider may be responsible and which may result in a debt owed the Corporation.

“(2) TIME FOR NOTIFICATION.—Notice under paragraph (1) shall be given within 3 years after the end of the insurance period during which the error, omission, or failure is alleged to have occurred, except that this time limitation shall not apply with respect to an error, omission, or procedural violation that is willful or intentional.

“(3) EFFECT OF FAILURE TO TIMELY NOTIFY.—Except as provided in paragraph (2), the failure to timely provide the notice required under this subsection shall relieve the approved insurance provider from the debt owed the Corporation.

“(c) RECONCILING PRODUCER INFORMATION.—The Secretary shall develop and implement a coordinated plan for the Corporation and the Farm Service Agency to reconcile all relevant information received by the Corporation or the Farm Service Agency from a producer who obtains crop insurance coverage under this title. Beginning with the 2001 crop year, the Secretary shall require that the Corporation and the Farm Service Agency reconcile such

producer-derived information on at least an annual basis in order to identify and address any discrepancies.

“(d) IDENTIFICATION AND ELIMINATION OF FRAUD, WASTE, AND ABUSE.—

“(1) FSA MONITORING PROGRAM.—The Secretary shall develop and implement a coordinated plan for the Farm Service Agency to assist the Corporation in the ongoing monitoring of programs carried out under this title, including—

“(A) at the request of the Corporation or, subject to paragraph (2), on its own initiative if the Farm Service Agency has reason to suspect the existence of program fraud, waste, or abuse, conducting fact finding relative to allegations of program fraud, waste, or abuse;

“(B) reporting to the Corporation, in writing in a timely manner, the results of any fact finding conducted pursuant to subparagraph (A), any allegation of fraud, waste, or abuse, and any identified program vulnerabilities; and

“(C) assisting the Corporation and approved insurance providers in auditing a statistically appropriate number of claims made under any policy or plan of insurance under this title.

“(2) FSA INQUIRY.—If, within five calendar days after receiving a report submitted under paragraph (1)(B), the Corporation does not provide a written response that describes the intended actions of the Corporation, the Farm Service Agency may conduct its own inquiry into the alleged program fraud, waste, or abuse on approval from the State director of the Farm Service Agency of the State in which the alleged fraud, waste, or abuse occurred. If as a result of the inquiry, the Farm Service Agency concludes further investigation is warranted, but the Corporation declines to proceed with the investigation, the Farm Service Agency may refer the matter to the Inspector General of the Department of Agriculture.

“(3) USE OF FIELD INFRASTRUCTURE.—The plan required by paragraph (1) shall provide for the use of the field infrastructure of the Farm Service Agency. The Secretary shall ensure that relevant Farm Service Agency personnel are appropriately trained for any responsibilities assigned to the personnel under the plan. At a minimum, the personnel shall receive the same level of training and pass the same basic competency tests as required of loss adjusters of approved insurance providers.

“(4) MAINTENANCE OF PROVIDER EFFORT.—

“(A) IN GENERAL.—The activities of the Farm Service Agency under this subsection do not affect the responsibility of approved insurance providers to conduct any audits of claims or other program reviews required by the Corporation.

“(B) NOTIFICATION OF PROVIDERS.—The Corporation shall notify the appropriate approved insurance provider of a report from the Farm Service Agency regarding alleged program fraud, waste, or abuse, unless the provider is suspected to be included in, or a party to, the alleged fraud, waste, or abuse.

“(C) RESPONSE.—An approved insurance provider that receives a notice under subparagraph (B) shall submit a report to the Corporation, within an appropriate time period determined by the Secretary, describing the actions

taken by the provider to investigate the allegations of program fraud, waste, or abuse contained in the notice.

“(5) CORPORATION RESPONSE TO PROVIDER REPORTS.—

“(A) PROMPT RESPONSE.—If an approved insurance provider reports to the Corporation that the approved insurance provider suspects intentional misrepresentation, fraud, waste, or abuse, the Corporation shall make a determination and provide, within 90 calendar days after receiving the report, a written response that describes the intended actions of the Corporation.

“(B) COOPERATIVE EFFORT.—The approved insurance provider and the Corporation shall take coordinated action in any case where misrepresentation, fraud, waste, or abuse is alleged.

“(C) FAILURE TO TIMELY RESPOND.—If the Corporation fails to respond as required by subparagraph (A), an approved insurance provider may request the Farm Service Agency to assist the provider in an inquiry into the alleged program fraud, waste, or abuse.

“(e) CONSULTATION WITH STATE FSA COMMITTEES.—The Secretary shall establish procedures under which the Corporation shall consult with the State committee of the Farm Service Agency for a State with respect to policies, plans of insurance, and material related to such policies or plans of insurance (including applicable sales closing dates, assigned yields, and transitional yields) offered in that State under this title.

“(f) DETECTION OF DISPARATE PERFORMANCE.—

“(1) COVERED ACTIVITIES.—The Secretary shall establish procedures under which the Corporation will be able to identify the following:

“(A) Any agent engaged in the sale of coverage offered under this title where the loss claims associated with such sales by the agent are equal to or greater than 150 percent (or an appropriate percentage specified by the Corporation) of the mean for all loss claims associated with such sales by all other agents operating in the same area, as determined by the Corporation.

“(B) Any person performing loss adjustment services relative to coverage offered under this title where such loss adjustments performed by the person result in accepted or denied claims equal to or greater than 150 percent (or an appropriate percentage specified by the Corporation) of the mean for accepted or denied claims (as applicable) for all other persons performing loss adjustment services in the same area, as determined by the Corporation.

“(2) REVIEW.—

“(A) REVIEW REQUIRED.—The Corporation shall conduct a review of any agent identified pursuant to paragraph (1)(A), and any person identified pursuant to paragraph (1)(B), to determine whether the higher loss claims associated with the agent or the higher number of accepted or denied claims (as applicable) associated with the person are the result of fraud, waste, or abuse.

“(B) REMEDIAL ACTION.—The Corporation shall take appropriate remedial action with respect to any occurrence of fraud, waste, or abuse identified in a review conducted under this paragraph.

“(3) OVERSIGHT OF AGENTS AND LOSS ADJUSTERS.—The Corporation shall develop procedures to require an annual review by an approved insurance provider of the performance of each agent and loss adjuster used by the approved insurance provider. The Corporation shall oversee the conduct of annual reviews and may consult with an approved insurance provider regarding any remedial action that is determined to be necessary as a result of the annual review of an agent or loss adjuster.

“(g) SUBMISSION OF INFORMATION TO CORPORATION TO SUPPORT COMPLIANCE EFFORTS.—

“(1) TYPES OF INFORMATION REQUIRED.—The Secretary shall establish procedures under which approved insurance providers shall submit to the Corporation the following information with respect to each policy or plan of insurance offered under this title:

“(A) The name and identification number of the insured.

“(B) The agricultural commodity to be insured.

“(C) The elected coverage level, including the price election, of the insured.

“(2) TIME FOR SUBMISSION.—The information required by paragraph (1) with respect to a policy or plan of insurance shall be submitted so as to ensure receipt by the Corporation not later than the Saturday of the week containing the calendar day that is 30 days after the applicable sales closing date for the crop to be insured.

Deadline.

“(h) SANCTIONS FOR PROGRAM NONCOMPLIANCE AND FRAUD.—

“(1) FALSE INFORMATION.—A producer, agent, loss adjuster, approved insurance provider, or other person that willfully and intentionally provides any false or inaccurate information to the Corporation or to an approved insurance provider with respect to a policy or plan of insurance under this title may, after notice and an opportunity for a hearing on the record, be subject to one or more of the sanctions described in paragraph (3).

“(2) COMPLIANCE.—A person may, after notice and an opportunity for a hearing on the record, be subject to one or more of the sanctions described in paragraph (3) if the person is a producer, agent, loss adjuster, approved insurance provider, or other person that willfully and intentionally fails to comply with a requirement of the Corporation.

“(3) AUTHORIZED SANCTIONS.—If the Secretary determines that a person covered by this subsection has committed a material violation under paragraph (1) or (2), the following sanctions may be imposed:

“(A) CIVIL FINES.—A civil fine may be imposed for each violation in an amount not to exceed the greater of—

“(i) the amount of the pecuniary gain obtained as a result of the false or inaccurate information provided or the noncompliance with a requirement of this title; or

“(ii) \$10,000.

“(B) PRODUCER DISQUALIFICATION.—In the case of a violation committed by a producer, the producer may be disqualified for a period of up to 5 years from receiving

any monetary or nonmonetary benefit provided under each of the following:

“(i) This title.

“(ii) The Agricultural Market Transition Act (7 U.S.C. 7201 et seq.), including the noninsured crop disaster assistance program under section 196 of that Act (7 U.S.C. 7333).

“(iii) The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

“(iv) The Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.).

“(v) The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.).

“(vi) Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

“(vii) The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

“(viii) Any law that provides assistance to a producer of an agricultural commodity affected by a crop loss or a decline in the prices of agricultural commodities.

“(C) DISQUALIFICATION OF OTHER PERSONS.—In the case of a violation committed by an agent, loss adjuster, approved insurance provider, or other person (other than a producer), the violator may be disqualified for a period of up to 5 years from participating in any program, or receiving any benefit, under this title.

“(4) ASSESSMENT OF SANCTION.—The Secretary shall consider the gravity of the violation of the person covered by this subsection in determining—

“(A) whether to impose a sanction under this subsection; and

“(B) the type and amount of the sanction to be imposed.

“(5) DISCLOSURE OF SANCTIONS.—Each policy or plan of insurance under this title shall provide notice describing the sanctions prescribed under paragraph (3) for willfully and intentionally—

“(A) providing false or inaccurate information to the Corporation or to an approved insurance provider; or

“(B) failing to comply with a requirement of the Corporation.

“(6) INSURANCE FUND.—Any funds collected under this subsection shall be deposited into the insurance fund established under section 516(c).

“(i) ANNUAL REPORT ON PROGRAM COMPLIANCE AND INTEGRITY EFFORTS.—

“(1) REPORT REQUIRED.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report describing the operation of this section during the preceding year and efforts undertaken by the Secretary and the Corporation to carry out this section.

“(2) INFORMATION REGARDING FRAUD, WASTE, AND ABUSE.—The report shall identify specific occurrences of waste, fraud, or abuse and contain an outline of actions that have been or are being taken to eliminate the identified waste, fraud, or abuse.

“(j) INFORMATION MANAGEMENT.—

“(1) SYSTEMS UPGRADES.—The Secretary shall upgrade the information management systems of the Corporation used in the administration and enforcement and this title. In upgrading the systems, the Secretary shall ensure that new hardware and software are compatible with the hardware and software used by other agencies of the Department to maximize data sharing and promote the purpose of this section.

“(2) USE OF AVAILABLE INFORMATION TECHNOLOGIES.—The Secretary shall use the information technologies known as data mining and data warehousing and other available information technologies to administer and enforce this title.

“(3) USE OF PRIVATE SECTOR.—The Secretary may enter into contracts to use private sector expertise and technological resources in implementing this subsection.

“(k) FUNDING.—

“(1) AVAILABLE FUNDS.—To carry out this section and sections 502(c), 506(h), 508(a)(3)(B), and 508(f)(3)(A), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than \$23,000,000 during the period of fiscal years 2001 through 2005, of which not more than \$9,000,000 shall be available for fiscal year 2001.

“(2) PROHIBITION.—None of the funds made available under paragraph (1) may be used to pay the salaries of employees of the Corporation.”.

(b) CONFORMING AMENDMENT.—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended—

(1) by striking subsection (q); and

(2) by redesignating subsections (r) and (s) as subsections (q) and (r), respectively.

SEC. 122. PROTECTION OF CONFIDENTIAL INFORMATION.

Section 502 of the Federal Crop Insurance Act (7 U.S.C. 1502) is amended by adding at the end the following:

“(c) PROTECTION OF CONFIDENTIAL INFORMATION.—

“(1) GENERAL PROHIBITION AGAINST DISCLOSURE.—Except as provided in paragraph (2), the Secretary, any other officer or employee of the Department or an agency thereof, an approved insurance provider and its employees and contractors, and any other person may not disclose to the public information furnished by a producer under this title.

“(2) AUTHORIZED DISCLOSURE.—

“(A) DISCLOSURE IN STATISTICAL OR AGGREGATE FORM.—Information described in paragraph (1) may be disclosed to the public if the information has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

“(B) CONSENT OF PRODUCER.—A producer may consent to the disclosure of information described in paragraph (1). The participation of the producer in, and the receipt of any benefit by the producer under, this title or any other program administered by the Secretary may not be conditioned on the producer providing consent under this paragraph.

“(3) VIOLATIONS; PENALTIES.—Section 1770(c) of the Food Security Act of 1985 (7 U.S.C. 2276(c)) shall apply with respect to the release of information collected in any manner or for any purpose prohibited by this subsection.”.

SEC. 123. GOOD FARMING PRACTICES.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by striking paragraph (3) and inserting the following:

“(3) EXCLUSION OF LOSSES DUE TO CERTAIN ACTIONS OF PRODUCER.—

“(A) EXCLUSIONS.—Insurance provided under this subsection shall not cover losses due to—

“(i) the neglect or malfeasance of the producer;

“(ii) the failure of the producer to reseed to the same crop in such areas and under such circumstances as it is customary to reseed; or

“(iii) the failure of the producer to follow good farming practices, including scientifically sound sustainable and organic farming practices.

“(B) GOOD FARMING PRACTICES.—

“(i) INFORMAL ADMINISTRATIVE PROCESS.—A producer shall have the right to a review of a determination regarding good farming practices made under subparagraph (A)(iii) in accordance with an informal administrative process to be established by the Corporation.

“(ii) ADMINISTRATIVE REVIEW.—

“(I) NO ADVERSE DECISION.—The determination shall not be considered an adverse decision for purposes of subtitle H of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6991 et seq.).

“(II) REVERSAL OR MODIFICATION.—Except as provided in clause (i), the determination may not be reversed or modified as the result of a subsequent administrative review.

“(iii) JUDICIAL REVIEW.—

“(I) RIGHT TO REVIEW.—A producer shall have the right to judicial review of the determination without exhausting any right to a review under clause (i).

“(II) REVERSAL OR MODIFICATION.—The determination may not be reversed or modified as the result of judicial review unless the determination is found to be arbitrary or capricious.”.

SEC. 124. RECORDS AND REPORTING.

(a) CONDITION OF OBTAINING COVERAGE.—Section 508(f)(3) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)(3)) is amended by striking subparagraph (A) and inserting the following:

“(A) provide annually records acceptable to the Secretary regarding crop acreage, acreage yields, and production for each agricultural commodity insured under this title or accept a yield determined by the Corporation; and”.

(b) ADDITIONAL GENERAL POWER.—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended by striking subsection (h) and inserting the following:

“(h) COLLECTION AND SHARING OF INFORMATION.—

“(1) SURVEYS AND INVESTIGATIONS.—The Corporation may conduct surveys and investigations relating to crop insurance, agriculture-related risks and losses, and other issues related to carrying out this title.

“(2) DATA COLLECTION.—The Corporation shall assemble data for the purpose of establishing sound actuarial bases for insurance on agricultural commodities.

“(3) SHARING OF RECORDS.—Notwithstanding section 502(c), records submitted in accordance with this title and section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333) shall be available to agencies and local offices of the Department, appropriate State and Federal agencies and divisions, and approved insurance providers for use in carrying out this title, such section 196, and other agricultural programs.”.

Subtitle C—Research and Pilot Programs

SEC. 131. RESEARCH AND DEVELOPMENT.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended by adding at the end the following:

“SEC. 522. RESEARCH AND DEVELOPMENT.

“(a) DEFINITION OF POLICY.—In this section, the term ‘policy’ means a policy, plan of insurance, provision of a policy or plan of insurance, and related materials.

“(b) REIMBURSEMENT OF RESEARCH, DEVELOPMENT, AND MAINTENANCE COSTS.—

“(1) RESEARCH AND DEVELOPMENT REIMBURSEMENT.—The Corporation shall provide a payment to reimburse an applicant for research and development costs directly related to a policy that is—

“(A) submitted to the Board and approved by the Board under section 508(h) for reinsurance; and

“(B) if applicable, offered for sale to producers.

“(2) EXISTING PLANS.—The Corporation shall reimburse costs associated with research and development costs directly related to a policy that was approved by the Board prior to the date of the enactment of this section.

“(3) MARKETABILITY.—The Corporation shall approve a reimbursement under paragraph (1) or (2) only after determining that the policy is marketable based on a reasonable marketing plan, as determined by the Board.

“(4) MAINTENANCE PAYMENTS.—

“(A) REQUIREMENT.—The Corporation shall reimburse maintenance costs associated with the annual cost of underwriting for a policy described in paragraphs (1) and (2).

“(B) DURATION.—Payments with respect to maintenance costs may be provided for a period of not more than four reinsurance years subsequent to Board approval for payment under this subsection.

“(C) OPTIONS FOR MAINTENANCE.—On the expiration of the 4-year period described in subparagraph (B), the approved insurance provider responsible for maintenance of the policy may—

“(i) maintain the policy and charge a fee to approved insurance providers that elect to sell the policy under this subsection; or

“(ii) transfer responsibility for maintenance of the policy to the Corporation.

“(D) FEE.—

“(i) AMOUNT.—Subject to approval by the Board, the amount of the fee that is payable by an approved insurance provider that elects to sell the policy shall be an amount that is determined by the approved insurance provider maintaining the policy.

“(ii) APPROVAL.—The Board shall approve the amount of a fee determined under clause (i) for maintenance of the policy unless the Board determines that the amount of the fee—

“(I) is unreasonable in relation to the maintenance costs associated with the policy; or

“(II) unnecessarily inhibits the use of the policy.

“(5) TREATMENT OF PAYMENT.—Payments made under this subsection for a policy shall be considered as payment in full by the Corporation for the research and development conducted with regard to the policy and any property rights to the policy.

“(6) REIMBURSEMENT AMOUNT.—The Corporation shall determine the amount of the payment under this subsection for an approved policy based on the complexity of the policy and the size of the area in which the policy or material is expected to be sold.

“(c) RESEARCH AND DEVELOPMENT CONTRACTING AUTHORITY.—

“(1) AUTHORITY.—The Corporation may enter into contracts to carry out research and development to—

“(A) increase participation in States in which the Corporation determines that—

“(i) there is traditionally, and continues to be, a low level of Federal crop insurance participation and availability; and

“(ii) the State is underserved by the Federal crop insurance program;

“(B) increase participation in areas that are underserved by the Federal crop insurance program; and

“(C) increase participation by producers of underserved agricultural commodities, including specialty crops.

“(2) UNDERSERVED AGRICULTURAL COMMODITIES AND AREAS.—

“(A) AUTHORITY.—The Corporation may enter into contracts under procedures prescribed by the Corporation with qualified persons to carry out research and development for policies that promote the purposes of paragraph (1).

“(B) CONSULTATION.—Before entering into a contract under subparagraph (A), the Corporation shall consult with groups representing producers of agricultural commodities that would be served by the policies that are the subject of the research and development.

“(3) QUALIFIED PERSONS.—A person with experience in crop insurance or farm or ranch risk management (including a college or university, an approved insurance provider, and a trade or research organization), as determined by the Corporation,

shall be eligible to enter into a contract with the Corporation under this subsection.

"(4) TYPES OF CONTRACTS.—A contract under this subsection may provide for research and development regarding new or expanded policies, including policies based on adjusted gross income, cost-of-production, quality losses, and an intermediate base program with a higher coverage and cost than catastrophic risk protection.

"(5) USE OF RESULTING POLICIES.—The Corporation may offer any policy developed under this subsection that is approved by the Board.

"(6) RESEARCH AND DEVELOPMENT PRIORITIES.—The Corporation shall establish as one of the highest research and development priorities of the Corporation the development of a pasture, range, and forage program.

"(7) STUDY OF MULTIYEAR COVERAGE.—

"(A) IN GENERAL.—The Corporation shall contract with a qualified person to conduct a study to determine whether offering policies that provide coverage for multiple years would reduce fraud, waste, and abuse by persons that participate in the Federal crop insurance program.

"(B) REPORT.—Not later than 1 year after the date of the enactment of this section, the Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under subparagraph (A).

Deadline.

"(8) CONTRACT FOR REVENUE COVERAGE PLANS.—The Corporation shall enter into a contract for research and development regarding one or more revenue coverage plans that are designed to enable producers to take maximum advantage of fluctuations in market prices and thereby maximize revenue realized from the sale of an agricultural commodity. A revenue coverage plan may include the use of existing market instruments or the development of new market instruments. Not later than 15 months after the date of the enactment of this section, the Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the contract entered into under this paragraph.

Deadline.

"(9) CONTRACT FOR COST OF PRODUCTION POLICY.—

"(A) AUTHORITY.—The Corporation shall enter into a contract for research and development regarding a cost of production policy.

"(B) RESEARCH AND DEVELOPMENT.—The research and development shall—

"(i) take into consideration the differences in the cost of production on a county-by-county basis; and

"(ii) cover as many commodities as is practicable.

"(10) RELATION TO LIMITATIONS.—A policy developed under this subsection may be prepared without regard to the limitations of this title, including—

"(A) the requirement concerning the levels of coverage and rates; and

“(B) the requirement that the price level for each insured agricultural commodity must equal the expected market price for the agricultural commodity, as established by the Board.

“(d) PARTNERSHIPS FOR RISK MANAGEMENT DEVELOPMENT AND IMPLEMENTATION.—

“(1) PURPOSE.—The purpose of this subsection is to authorize the Corporation to enter into partnerships with public and private entities for the purpose of increasing the availability of loss mitigation, financial, and other risk management tools for producers, with a priority given to risk management tools for producers of agricultural commodities covered by section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333), specialty crops, and underserved agricultural commodities.

“(2) AUTHORITY.—The Corporation may enter into partnerships with the Cooperative State Research, Education, and Extension Service, the Agricultural Research Service, the National Oceanic Atmospheric Administration, and other appropriate public and private entities with demonstrated capabilities in developing and implementing risk management and marketing options for producers of specialty crops and underserved agricultural commodities.

“(3) OBJECTIVES.—The Corporation may enter into a partnership under paragraph (2)—

“(A) to enhance the notice and timeliness of notice of weather conditions that could negatively affect crop yields, quality, and final product use in order to allow producers to take preventive actions to increase end product profitability and marketability and to reduce the possibility of crop insurance claims;

“(B) to develop a multifaceted approach to pest management and fertilization to decrease inputs, decrease environmental exposure, and increase application efficiency;

“(C) to develop or improve techniques for planning, breeding, planting, growing, maintaining, harvesting, storing, shipping, and marketing that will address quality and quantity challenges associated with year-to-year and regional variations;

“(D) to clarify labor requirements and assist producers in complying with requirements to better meet the physically intense and time-compressed planting, tending, and harvesting requirements associated with the production of specialty crops and underserved agricultural commodities;

“(E) to provide assistance to State foresters or equivalent officials for the prescribed use of burning on private forest land for the prevention, control, and suppression of fire;

“(F) to provide producers with training and informational opportunities so that the producers will be better able to use financial management, crop insurance, marketing contracts, and other existing and emerging risk management tools; and

“(G) to develop other risk management tools to further increase economic and production stability.

“(e) FUNDING.—

“(1) REIMBURSEMENTS.—Of the amounts made available from the insurance fund established under section 516(c), the Corporation may use to provide reimbursements under subsection (b) not more than \$10,000,000 for each of fiscal years 2001 and 2002 and not more than \$15,000,000 for fiscal year 2003 and each subsequent fiscal year.

“(2) CONTRACTING.—

“(A) AUTHORITY.—Of the amounts made available from the insurance fund established under section 516(c), the Corporation may use to carry out contracting and partnerships under subsections (c) and (d) not more than \$20,000,000 for each of fiscal years 2001 through 2003 and not more than \$25,000,000 for fiscal year 2004 and each subsequent fiscal year.

“(B) UNDERSERVED STATES.—Of the amount made available under subparagraph (A) for a fiscal year, the Corporation shall use not more than \$5,000,000 for the fiscal year to carry out contracting for research and development to carry out the purpose described in subsection (c)(1)(A).

“(3) UNUSED FUNDING.—If the Corporation determines that the amount available to provide either reimbursement payments or contract payments under this section for a fiscal year is not needed for such purposes, the Corporation may use the excess amount to carry out another function authorized under this section.

“(4) PROHIBITED RESEARCH AND DEVELOPMENT BY CORPORATION.—

“(A) NEW POLICIES.—Notwithstanding subsection (d), on and after October 1, 2000, the Corporation shall not conduct research and development for any new policy for an agricultural commodity offered under this title.

“(B) EXISTING POLICIES.—Any policy developed by the Corporation under this title before that date may continue to be offered for sale to producers.”.

SEC. 132. PILOT PROGRAMS.

(a) AUTHORITY.—The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), as amended by section 131, is amended by adding at the end the following:

“SEC. 523. PILOT PROGRAMS.

7 USC 1523.

“(a) GENERAL PROVISIONS.—

“(1) AUTHORITY.—Except as otherwise provided in this section, the Corporation may conduct a pilot program submitted to and approved by the Board under section 508(h), or that is developed under subsection (b) or section 522, to evaluate whether a proposal or new risk management tool tested by the pilot program is suitable for the marketplace and addresses the needs of producers of agricultural commodities.

“(2) PRIVATE COVERAGE.—Under this section, the Corporation shall not conduct any pilot program that provides insurance protection against a risk if insurance protection against the risk is generally available from private companies.

“(3) COVERED ACTIVITIES.—The pilot programs described in paragraph (1) may include pilot programs providing insurance protection against losses involving—

“(A) reduced forage on rangeland caused by drought or insect infestation;

“(B) livestock poisoning and disease;

“(C) destruction of bees due to the use of pesticides;

“(D) unique special risks related to fruits, nuts, vegetables, and specialty crops in general, aquacultural species, and forest industry needs (including appreciation);

“(E) after October 1, 2001, wild salmon, except that—

“(i) any pilot program with regard to wild salmon may be carried out without regard to the limitations of this title; and

“(ii) the Corporation shall conduct all wild salmon programs under this title so that, to the maximum extent practicable, all costs associated with conducting the programs are not expected to exceed \$1,000,000 for fiscal year 2002 and each subsequent fiscal year.

“(4) SCOPE OF PILOT PROGRAMS.—The Corporation may—

“(A) approve a pilot program under this section to be conducted on a regional, State, or national basis after considering the interests of affected producers and the interests of, and risks to, the Corporation;

“(B) operate the pilot program, including any modifications of the pilot program, for a period of up to 4 years;

“(C) extend the time period for the pilot program for additional periods, as determined appropriate by the Corporation; and

“(D) provide pilot programs that would allow producers—

“(i) to receive a reduced premium for using whole farm units or single crop units of insurance; and

“(ii) to cross State and county boundaries to form insurable units.

“(5) EVALUATION.—

“(A) REQUIREMENT.—After the completion of any pilot program under this section, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the operations of the pilot program.

“(B) EVALUATION AND RECOMMENDATIONS.—The report shall include an evaluation by the Corporation of the pilot program and the recommendations of the Corporation with respect to implementing the program on a national basis.

“(b) LIVESTOCK PILOT PROGRAMS.—

“(1) DEFINITION OF LIVESTOCK.—In this subsection, the term ‘livestock’ includes, but is not limited to, cattle, sheep, swine, goats, and poultry.

“(2) PROGRAMS REQUIRED.—Subject to paragraph (7), the Corporation shall conduct two or more pilot programs to evaluate the effectiveness of risk management tools for livestock producers, including the use of futures and options contracts and policies and plans of insurance that protect the interests of livestock producers and that provide—

“(A) livestock producers with reasonable protection from the financial risks of price or income fluctuations inherent in the production and marketing of livestock; or

“(B) protection for production losses.

“(3) PURPOSE OF PROGRAMS.—To the maximum extent practicable, the Corporation shall evaluate the greatest number and variety of pilot programs described in paragraph (2) to determine which of the offered risk management tools are best suited to protect livestock producers from the financial risks associated with the production and marketing of livestock.

“(4) TIMING.—The Corporation shall begin conducting livestock pilot programs under this subsection during fiscal year 2001.

“(5) RELATION TO OTHER LIMITATIONS.—Any policy or plan of insurance offered under this subsection may be prepared without regard to the limitations of this title.

“(6) ASSISTANCE.—As part of a pilot program under this subsection, the Corporation may provide reinsurance for policies or plans of insurance and subsidize the purchase of futures and options contracts or policies and plans of insurance offered under the pilot program.

“(7) PRIVATE INSURANCE.—No action may be undertaken with respect to a risk under this subsection if the Corporation determines that insurance protection for livestock producers against the risk is generally available from private companies.

“(8) LOCATION.—The Corporation shall conduct the livestock pilot programs under this subsection in a number of counties that is determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among producers for the risk management tools evaluated in the pilot programs.

“(9) ELIGIBLE PRODUCERS.—Any producer of a type of livestock covered by a pilot program under this subsection that owns or operates a farm or ranch in a county selected as a location for that pilot program shall be eligible to participate in that pilot program.

“(10) LIMITATION ON EXPENDITURES.—The Corporation shall conduct all livestock programs under this title so that, to the maximum extent practicable, all costs associated with conducting the livestock programs (other than research and development costs covered by section 522) are not expected to exceed the following:

“(A) \$10,000,000 for each of fiscal years 2001 and 2002.

“(B) \$15,000,000 for fiscal year 2003.

“(C) \$20,000,000 for fiscal year 2004 and each subsequent fiscal year.

“(c) REVENUE INSURANCE PILOT PROGRAM.—

“(1) IN GENERAL.—Subject to section 522(e)(4), the Secretary shall carry out a pilot program in a limited number of counties, as determined by the Secretary, for crop years 1997 through 2001, under which a producer of wheat, feed grains, soybeans, or such other commodity as the Secretary considers appropriate may elect to receive insurance against loss of revenue, as determined by the Secretary.

“(2) ADMINISTRATION.—Revenue insurance under this subsection shall—

“(A) be offered through reinsurance arrangements with private insurance companies;

“(B) offer at least a minimum level of coverage that is an alternative to catastrophic crop insurance;

“(C) be actuarially sound; and

“(D) require the payment of premiums and administrative fees by an insured producer.

“(d) PREMIUM RATE REDUCTION PILOT PROGRAM.—

“(1) PURPOSE.—The purpose of the pilot program established under this subsection is to determine whether approved insurance providers will compete to market policies or plans of insurance with reduced rates of premium, in a manner that maintains the financial soundness of approved insurance providers and is consistent with the integrity of the Federal crop insurance program.

“(2) ESTABLISHMENT.—

“(A) IN GENERAL.—Beginning with the 2002 crop year, the Corporation shall establish a pilot program under which approved insurance providers may propose for approval by the Board policies or plans of insurance with reduced rates of premium—

“(i) for one or more agricultural commodities; and

“(ii) within a limited geographic area, as proposed by the approved insurance provider and approved by the Board.

“(B) DETERMINATION BY BOARD.—The Board shall approve a policy or plan of insurance proposed under this subsection that involves a premium reduction if the Board determines that—

“(i) the interests of producers are adequately protected within the pilot area;

“(ii) rates of premium are actuarially appropriate, as determined by the Board;

“(iii) the size of the proposed pilot area is adequate;

“(iv) the proposed policy or plan of insurance would not unfairly discriminate among producers within the proposed pilot area;

“(v) if the proposed policy or plan of insurance were available in a geographic area larger than the proposed pilot area, the proposed policy or plan of insurance would—

“(I) not have a significant adverse impact on the crop insurance delivery system;

“(II) not result in a reduction of program integrity;

“(III) be actuarially appropriate; and

“(IV) not place an additional financial burden on the Federal Government; and

“(vi) the proposed policy or plan of insurance meets other requirements of this title determined appropriate by the Board.

“(C) TIME LIMITATIONS AND PROCEDURES.—The time limitations and procedures of the Board established under section 508(h) shall apply to a proposal submitted under this subsection.”.

(b) CONFORMING AMENDMENTS.—Section 518 of the Federal Crop Insurance Act (7 U.S.C. 1518) is amended—

(1) by striking “livestock and” after “commodity, excluding”; and

(2) by striking “under subsection (a) or (m) of section 508 of this title”.

SEC. 133. EDUCATION AND RISK MANAGEMENT ASSISTANCE.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), as amended by section 132(a), is amended by adding at the end the following:

“SEC. 524. EDUCATION AND RISK MANAGEMENT ASSISTANCE.

7 USC 1524.

“(a) EDUCATION ASSISTANCE.—

“(1) IN GENERAL.—Subject to the amounts made available under paragraph (4)—

“(A) the Corporation shall carry out the program established under paragraph (2); and

“(B) the Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall carry out the program established under paragraph (3).

“(2) EDUCATION AND INFORMATION.—The Corporation shall establish a program under which crop insurance education and information is provided to producers in States in which (as determined by the Secretary)—

“(A) there is traditionally, and continues to be, a low level of Federal crop insurance participation and availability; and

“(B) producers are underserved by the Federal crop insurance program.

“(3) PARTNERSHIPS FOR RISK MANAGEMENT EDUCATION.—

“(A) AUTHORITY.—The Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall establish a program under which competitive grants are made to qualified public and private entities (including land grant colleges, cooperative extension services, and colleges or universities), as determined by the Secretary, for the purpose of educating agricultural producers about the full range of risk management activities, including futures, options, agricultural trade options, crop insurance, cash forward contracting, debt reduction, production diversification, farm resources risk reduction, and other risk management strategies.

“(B) BASIS FOR GRANTS.—A grant under this paragraph shall be awarded on the basis of merit and shall be subject to peer or merit review.

“(C) OBLIGATION PERIOD.—Funds for a grant under this paragraph shall be available to the Secretary for obligation for a 2-year period.

“(D) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available for grants under this paragraph for administrative costs incurred by the Secretary in carrying out this paragraph.

“(4) FUNDING.—From the insurance fund established under section 516(c), there is transferred—

“(A) for the education and information program established under paragraph (2), \$5,000,000 for fiscal year 2001 and each subsequent fiscal year; and

“(B) for the partnerships for risk management education program established under paragraph (3), \$5,000,000 for fiscal year 2001 and each subsequent fiscal year.

“(b) AGRICULTURAL MANAGEMENT ASSISTANCE.—

“(1) **AUTHORITY.**—The Secretary shall provide cost share assistance to producers, in a manner determined by the Secretary, in not less than 10, nor more than 15, States in which participation in the Federal crop insurance program is historically low, as determined by the Secretary.

“(2) **USES.**—A producer may use cost share assistance provided under this subsection to—

“(A) construct or improve—

“(i) watershed management structures; or

“(ii) irrigation structures;

“(B) plant trees to form windbreaks or to improve water quality;

“(C) mitigate financial risk through production diversification or resource conservation practices, including—

“(i) soil erosion control;

“(ii) integrated pest management; or

“(iii) transition to organic farming;

“(D) enter into futures, hedging, or options contracts in a manner designed to help reduce production, price, or revenue risk;

“(E) enter into agricultural trade options as a hedging transaction to reduce production, price, or revenue risk; or

“(F) conduct any other activity related to the activities described in subparagraphs (A) through (E), as determined by the Secretary.

“(2) **PAYMENT LIMITATION.**—The total amount of payments made to a person (as defined in section 1001(5) of the Food Security Act (7 U.S.C. 1308(5))) under this subsection for any year may not exceed \$50,000.

“(3) **COMMODITY CREDIT CORPORATION.**—

“(A) **IN GENERAL.**—The Secretary shall carry out this subsection through the Commodity Credit Corporation.

“(B) **FUNDING.**—The Commodity Credit Corporation shall make available to carry out this subsection \$10,000,000 for fiscal year 2001 and each subsequent fiscal year.”.

SEC. 134. OPTIONS PILOT PROGRAM.

Section 191 of the Agricultural Market Transition Act (7 U.S.C. 7331) is amended—

(1) in the first sentence of subsection (b), by striking “100 counties, except that not more than 6” and inserting “300 counties, except that not more than 25”;

(2) in subsection (c)(2), by inserting before the semicolon the following: “during any calendar year in which a county in which the farm of the producer is located is included in the pilot program”; and

(3) in the first sentence of subsection (h), by inserting before the period at the end the following: “, except that the amount of Commodity Credit Corporation funds used to carry out this section shall not exceed, to the maximum extent practicable, \$9,000,000 for fiscal year 2001, \$15,000,000 for fiscal year 2002, and \$2,000,000 for fiscal year 2003”.

Subtitle D—Administration

SEC. 141. RELATION TO OTHER LAWS.

Section 502 of the Federal Crop Insurance Act (7 U.S.C. 1502), as amended by section 122, is amended by adding at the end the following:

“(d) RELATION TO OTHER LAWS.—

“(1) TERMS AND CONDITIONS OF POLICIES AND PLANS.—The terms and conditions of any policy or plan of insurance offered under this title that is reinsured by the Corporation shall not—

“(A) be subject to the jurisdiction of the Commodity Futures Trading Commission or the Securities and Exchange Commission; or

“(B) be considered to be accounts, agreements (including any transaction that is of the character of, or is commonly known to the trade as, an ‘option’, ‘privilege’, ‘indemnity’, ‘bid’, ‘offer’, ‘put’, ‘call’, ‘advance guaranty’, or ‘decline guaranty’), or transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market for the purposes of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

“(2) EFFECT ON CFTC AND COMMODITY EXCHANGE ACT.—Nothing in this title affects the jurisdiction of the Commodity Futures Trading Commission or the applicability of the Commodity Exchange Act (7 U.S.C. 1 et seq.) to any transaction conducted on a contract market under that Act by an approved insurance provider to offset the approved insurance provider’s risk under a plan or policy of insurance under this title.”.

SEC. 142. MANAGEMENT OF CORPORATION.

(a) BOARD OF DIRECTORS OF CORPORATION.—

(1) CHANGE IN COMPOSITION.—Section 505 of the Federal Crop Insurance Act (7 U.S.C. 1505) is amended by striking the section heading, “SEC. 505.”, and subsection (a) and inserting the following:

“SEC. 505. MANAGEMENT OF CORPORATION.

“(a) BOARD OF DIRECTORS.—

“(1) ESTABLISHMENT.—The management of the Corporation shall be vested in a Board of Directors subject to the general supervision of the Secretary.

“(2) COMPOSITION.—The Board shall consist of only the following members:

“(A) The manager of the Corporation, who shall serve as a nonvoting ex officio member.

“(B) The Under Secretary of Agriculture responsible for the Federal crop insurance program.

“(C) One additional Under Secretary of Agriculture (as designated by the Secretary).

“(D) The Chief Economist of the Department of Agriculture.

“(E) One person experienced in the crop insurance business.

“(F) One person experienced in reinsurance or the regulation of insurance.

“(G) Four active producers who are policy holders, are from different geographic areas of the United States, and represent a cross-section of agricultural commodities grown in the United States, including at least one specialty crop producer.

“(3) APPOINTMENT OF PRIVATE SECTOR MEMBERS.—The members of the Board described in subparagraphs (E), (F), and (G) of paragraph (2)—

“(A) shall be appointed by, and hold office at the pleasure of, the Secretary;

“(B) shall not be otherwise employed by the Federal Government;

“(C) shall be appointed to staggered 4-year terms, as determined by the Secretary; and

“(D) shall serve not more than two consecutive terms.

“(4) CHAIRPERSON.—The Board shall select a member of the Board to serve as Chairperson.”

7 USC 1505 note.

(2) IMPLEMENTATION.—The initial members of the Board of Directors of the Federal Crop Insurance Corporation required to be appointed under section 505(a)(3) of the Federal Crop Insurance Act (as amended by paragraph (1)) shall be appointed during the period beginning February 1, 2001, and ending April 1, 2001.

7 USC 1505 note.

(3) EFFECT ON EXISTING BOARD.—A member of the Board of Directors of the Federal Crop Insurance Corporation on the date of the enactment of this Act may continue to serve as a member of the Board until the members referred to in paragraph (2) are first appointed.

(b) EXPERT REVIEW OF POLICIES, PLANS OF INSURANCE, AND RELATED MATERIAL.—Section 505 of the Federal Crop Insurance Act (7 U.S.C. 1505) is amended by adding at the end the following:

“(e) EXPERT REVIEW OF POLICIES, PLANS OF INSURANCE, AND RELATED MATERIAL.—

“(1) REVIEW BY EXPERTS.—The Board shall establish procedures under which any policy or plan of insurance, as well as any related material or modification of such a policy or plan of insurance, to be offered under this title shall be subject to independent reviews by persons experienced as actuaries and in underwriting, as determined by the Board.

“(2) REVIEW OF CORPORATION POLICIES AND PLANS.—Except as provided in paragraph (3), the Board shall contract with at least five persons to each conduct a review of the policy or plan of insurance, of whom—

“(A) not more than one person may be employed by the Federal Government; and

“(B) at least one person must be designated by approved insurance providers pursuant to procedures determined by the Board.

“(3) REVIEW OF PRIVATE SUBMISSIONS.—If the reviews under paragraph (1) cover a policy or plan of insurance, or any related material or modification of a policy or plan of insurance, submitted under section 508(h)—

“(A) the Board shall contract with at least five persons to each conduct a review of the policy or plan of insurance, of whom—

“(i) not more than one person may be employed by the Federal Government; and

“(ii) none may be employed by an approved insurance provider; and

“(B) each review must be completed and submitted to the Board not later than 30 days prior to the end of the 120-day period described in section 508(h)(4)(D).

Deadline.

“(4) CONSIDERATION OF REVIEWS.—The Board shall include reviews conducted under this subsection as part of the consideration of any policy or plan or insurance, or any related material or modification of a policy or plan of insurance, proposed to be offered under this title.

“(5) FUNDING OF REVIEWS.—Each contract to conduct a review under this subsection shall be funded from amounts made available under section 516(b)(2)(A)(ii).

“(6) RELATION TO OTHER AUTHORITY.—The contract authority provided in this subsection is in addition to any other contracting authority that may be exercised by the Board under section 506(l).”.

SEC. 143. CONTRACTING FOR RATING OF PLANS OF INSURANCE.

Section 507(c)(2) of the Federal Crop Insurance Act (7 U.S.C. 1507(c)(2)) is amended—

(1) by striking “actuarial, loss adjustment,” and inserting “actuarial services, services relating to loss adjustment and rating plans of insurance,”; and

(2) by inserting after “private sector” the following: “and to enable the Corporation to concentrate on regulating the provision of insurance under this title and evaluating new products and materials submitted under section 508(h) or 523”.

SEC. 144. ELECTRONIC AVAILABILITY OF CROP INSURANCE INFORMATION.

Section 508(a)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(5)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving such clauses 2 ems to the right;

(2) by striking “The Corporation” and inserting the following:

“(A) AVAILABLE INFORMATION.—The Corporation”; and

(3) by adding at the end the following:

“(B) USE OF ELECTRONIC METHODS.—

“(i) DISSEMINATION BY CORPORATION.—The Corporation shall make the information described in subparagraph (A) available electronically to producers and approved insurance providers.

“(ii) SUBMISSION TO CORPORATION.—To the maximum extent practicable, the Corporation shall allow producers and approved insurance providers to use electronic methods to submit information required by the Corporation.”.

SEC. 145. ADEQUATE COVERAGE FOR STATES.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by adding at the end the following:

“(7) ADEQUATE COVERAGE FOR STATES.—

“(A) DEFINITION OF ADEQUATELY SERVED.—In this paragraph, the term ‘adequately served’ means having a participation rate that is at least 50 percent of the national average participation rate.

“(B) REVIEW.—The Board shall review the policies and plans of insurance that are offered by approved insurance providers under this title to determine if each State is adequately served by the policies and plans of insurance.

“(C) REPORT.—

Deadline.

“(i) IN GENERAL.—Not later than 30 days after completion of the review under subparagraph (B), the Board shall submit to Congress a report on the results of the review.

“(ii) RECOMMENDATIONS.—The report shall include recommendations to increase participation in States that are not adequately served by the policies and plans of insurance.”

SEC. 146. SUBMISSION OF POLICIES AND MATERIALS TO BOARD.

(a) PERSONS AUTHORIZED TO SUBMIT.—Section 508(h)(1) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)(1)) is amended by inserting after “a person” the following: “(including an approved insurance provider, a college or university, a cooperative or trade association, or any other person)”.

(b) SALE BY APPROVED INSURANCE PROVIDERS.—Section 508(h)(3) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)(3)) is amended in the first sentence by inserting after “for sale” the following: “by approved insurance providers”.

(c) GUIDELINES FOR SUBMISSION AND REVIEW.—Section 508(h)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)(4)) is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A) CONFIDENTIALITY.—

“(i) IN GENERAL.—A proposal submitted to the Board under this subsection (including any information generated from the proposal) shall be considered to be confidential commercial or financial information for the purposes of section 552(b)(4) of title 5, United States Code.

“(ii) STANDARD OF CONFIDENTIALITY.—If information concerning a proposal could be withheld by the Secretary under the standard for privileged or confidential information pertaining to trade secrets and commercial or financial information under section 552(b)(4) of title 5, United States Code, the information shall not be released to the public.

“(iii) APPLICATION.—This subparagraph shall apply with respect to a proposal only during the period preceding any approval of the proposal by the Board.”;

(2) in subparagraph (B), by inserting “PERSONAL PRESENTATION.—” before “The”; and

(3) by striking subparagraphs (C) and (D) and inserting the following:

“(C) NOTIFICATION OF INTENT TO DISAPPROVE.—

“(i) TIME PERIOD.—The Board shall provide an applicant with notification of intent to disapprove a

Deadline.

proposal not later than 30 days prior to making the disapproval.

“(ii) MODIFICATION OF APPLICATION.—

“(I) AUTHORITY.—An applicant that receives the notification may modify the application, and such application, as modified, shall be considered by the Board in the manner provided in subparagraph (D) within the 30-day period beginning on the date the modified application is submitted.

“(II) TIME PERIOD.—Clause (i) shall not apply to the Board’s consideration of the modified application.

“(iii) EXPLANATION.—Any notification of intent to disapprove a policy or other material submitted under this subsection shall be accompanied by a complete explanation as to the reasons for the Board’s intention to deny approval.

“(D) DETERMINATION TO APPROVE OR DISAPPROVE POLICIES OR MATERIALS.—

“(i) TIME PERIOD.—Not later than 120 days after a policy or other material is submitted under this subsection, the Board shall make a determination to approve or disapprove the policy or material.

Deadline.

“(ii) EXPLANATION.—Any determination by the Board to disapprove any policy or other material shall be accompanied by a complete explanation of the reasons for the Board’s decision to deny approval.

“(iii) FAILURE TO MEET DEADLINE.—Notwithstanding any other provision of this title, if the Board fails to make a determination within the prescribed time period, the submitted policy or other material shall be deemed approved by the Board for the initial reinsurance year designated for the policy or material, unless the Board and the applicant agree to an extension.”.

(d) TECHNICAL AMENDMENTS.—Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended—

- (1) by striking paragraphs (6), (8), (9), and (10); and
- (2) by redesignating paragraph (7) as paragraph (6).

SEC. 147. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 516(a)(2) of the Federal Crop Insurance Act (7 U.S.C. 1516(a)(2)) is amended—

(1) by striking “years—” and inserting “years the following”;

(2) by capitalizing the first letter of the first word of each subparagraph;

(3) by striking “; and” at the end of subparagraph (A) and inserting a period; and

(4) by adding at the end the following:

“(C) Costs associated with the conduct of livestock and wild salmon pilot programs carried out under section 523, subject to the limitations in subsections (a)(3)(E)(ii) and (b)(10) of section 523.

“(D) Costs associated with the reimbursement, contracting, and partnerships for research and development under section 522.”.

(b) PAYMENT OF GENERAL CORPORATION EXPENSES FROM INSURANCE FUND.—Section 516(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1516(b)(1)) is amended—

(1) by striking “including—” and inserting “including the following:”;

(2) by capitalizing the first letter of the first word of each subparagraph;

(3) by striking the semicolon at the end of subparagraph (A) and inserting a period;

(4) by striking “; and” at the end of subparagraph (B) and inserting a period; and

(5) by adding at the end the following:

“(D) Costs associated with the conduct of livestock and wild salmon pilot programs carried out under section 523, subject to the limitations in subsections (a)(3)(E)(ii) and (b)(10) of section 523.

“(E) Costs associated with the reimbursement, contracting, and partnerships for research and development under section 522.”.

(c) EXPEDITED CONSIDERATION AND IMPLEMENTATION OF POLICIES, PLANS OF INSURANCE, AND RELATED MATERIALS.—Section 516(b)(2) of the Federal Crop Insurance Act (7 U.S.C. 1516(b)(2)) is amended—

(1) by striking “RESEARCH AND DEVELOPMENT EXPENSES.—” and inserting “POLICY CONSIDERATION AND IMPLEMENTATION.—”;

(2) in subparagraph (A)—

(A) by striking “may pay from” and inserting “may use”;

(B) by striking “research and development expenses of the Corporation”; and

(C) by striking the period at the end and inserting the following: “, to pay the following:

“(i) Costs associated with the consideration and implementation of policies, plans of insurance, and related materials submitted under section 508(h) or developed under section 522 or 523.

“(ii) Costs to contract for the review of policies, plans of insurance, and related materials under section 505(e) and to contract for other assistance in considering policies, plans of insurance, and related materials.”; and

(3) in subparagraph (B), by striking “research and development”.

(d) DEPOSITS TO INSURANCE FUND.—Section 516(c)(1) of the Federal Crop Insurance Act (7 U.S.C. 1516(c)(1)) is amended—

(1) by striking “income and” and inserting “income,”; and

(2) by inserting “, and civil fines collected under section 515(h)” after “(a)(2)”.

7 USC 1506 note. **SEC. 148. STANDARD REINSURANCE AGREEMENT.**

Notwithstanding section 536 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 1506 note; Public Law 105-185), the Federal Crop Insurance Corporation may renegotiate the Standard Reinsurance Agreement once during the 2001 through 2005 reinsurance years.

Subtitle E—Miscellaneous

SEC. 161. LIMITATION ON REVENUE COVERAGE FOR POTATOES.

Section 508(a)(3) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(3)), as amended by section 123, is amended by adding at the end the following:

“(C) LIMITATION ON REVENUE COVERAGE FOR POTATOES.—No policy or plan of insurance provided under this title (including a policy or plan of insurance approved by the Board under subsection (h)) shall cover losses due to a reduction in revenue for potatoes except as covered under a whole farm policy or plan of insurance, as determined by the Corporation.”.

SEC. 162. CROP INSURANCE COVERAGE FOR COTTON AND RICE.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)), as amended by 145, is amended by adding at the end the following:

“(8) SPECIAL PROVISIONS FOR COTTON AND RICE.—Notwithstanding any other provision of this title, beginning with the 2001 crops of upland cotton, extra long staple cotton, and rice, the Corporation shall offer plans of insurance, including prevented planting coverage and replanting coverage, under this title that cover losses of upland cotton, extra long staple cotton, and rice resulting from failure of irrigation water supplies due to drought and saltwater intrusion.”.

SEC. 163. INDEMNITY PAYMENTS FOR CERTAIN PRODUCERS.

(a) IN GENERAL.—Except as otherwise provided in this section, notwithstanding section 508(c)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)(5)), a producer that purchased a 1999 Crop Revenue Coverage policy for a commodity covered by Bulletin MGR-99-004 (as in effect before being voided by subsection (d)) by the sales closing date prescribed in the actuarial documents in the county where the policy was sold shall receive an indemnity payment in accordance with the policy.

(b) BASE AND HARVEST PRICES.—The base price and harvest price under the policy for a commodity described in subsection (a) shall be determined in accordance with the Commodity Exchange Endorsement published by the Federal Crop Insurance Corporation on July 14, 1998 (63 Fed. Reg. 37829).

(c) REINSURANCE.—Subject to subsection (b), notwithstanding section 508(c)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)(5)), the Corporation shall provide reinsurance with respect to the policy in accordance with the Standard Reinsurance Agreement.

(d) VOIDING OF BULLETIN.—Bulletin MGR-99-004, issued by the Administrator of the Risk Management Agency of the Department of Agriculture, is void.

(e) EFFECTIVE DATE.—This section takes effect on October 1, 2000.

SEC. 164. SENSE OF THE CONGRESS REGARDING THE FEDERAL CROP INSURANCE PROGRAM.

It is the sense of the Congress that—

(1) farmer-owned cooperatives play a valuable role in achieving the purposes of the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) by—

(A) encouraging producer participation in the Federal crop insurance program;

(B) improving the delivery system for crop insurance; and

(C) helping to develop new and improved insurance products;

(2) the Risk Management Agency, through its regulatory activities, should encourage efforts by farmer-owned cooperatives to promote appropriate risk management strategies among their membership;

(3) partnerships between approved insurance providers and farmer-owned cooperatives provide opportunity for agricultural producers to obtain needed insurance coverage on a more competitive basis and at a lower cost;

(4) the Risk Management Agency is following an appropriate regulatory process to ensure the continued participation by farmer-owned cooperatives in the delivery of crop insurance;

(5) efforts by the Risk Management Agency to finalize regulations that would incorporate the currently approved business practices of cooperatives participating in the Federal crop insurance program should be commended; and

(6) not later than 180 days after the date of the enactment of this Act, the Federal Crop Insurance Corporation should complete promulgation of the proposed rule entitled "General Administrative Regulations; Premium Reductions; Payment of Rebates, Dividends, and Patronage Refunds; and Payments to Insured-Owned and Record-Controlling Entities", published by the Federal Crop Insurance Corporation on May 12, 1999 (64 Fed. Reg. 25464), in a manner that—

(A) effectively responds to comments received from the public during the rulemaking process;

(B) provides an effective opportunity for farmer-owned cooperatives to assist the members of the cooperatives to obtain crop insurance and participate most effectively in the Federal crop insurance program;

(C) incorporates the currently approved business practices of farmer-owned cooperatives participating in the Federal crop insurance program; and

(D) protects the interests of agricultural producers.

SEC. 165. SENSE OF THE CONGRESS ON RURAL AMERICA, INCLUDING MINORITY AND LIMITED-RESOURCE FARMERS.

It is the sense of the Congress that—

(1) rural America, including minority and limited resource farmers, has not experienced this recent period of economic prosperity;

(2) as a result of sustained low commodity prices, they face significant challenges, including—

(A) a depressed farm economy;

(B) a loss of business and jobs on rural main streets;

(C) a reduction of capital investment; and

(D) a loss of independent farmers;

(3) Congress applauds American farmers and rural advocates, including the organizers of the Rally for Rural America,

Deadline.

for their efforts in calling this situation to the public's attention; and

(4) Congress is committed to responding to the concerns of rural America and pledges to devote full attention to making necessary changes to Federal agricultural programs in a manner that will—

(A) alleviate the agricultural price crisis;

(B) ensure competitive markets by empowering farm families;

(C) ensure that all farmers, including minority and limited-resource farmers, participate fully in the benefits of those programs;

(D) invest in rural education and health;

(E) increase resources for outreach and technical farming assistance;

(F) conserve our natural resources for future generations; and

(G) ensure a safe and secure food supply for all.

Subtitle F—Effective Dates and Implementation

SEC. 171. EFFECTIVE DATES.

7 USC 1501 note.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act take effect on the date of the enactment of this Act.

(b) EXCEPTIONS.—

(1) 2001 FISCAL YEAR.—The following provisions and the amendments made by the provisions take effect on October 1, 2000:

(A) Subtitle C.

(B) Section 146.

(C) Section 163.

(2) 2001 CROP YEAR.—The amendments made by the following provisions apply beginning with the 2001 crop of an agricultural commodity:

(A) Subsections (a), (b), and (c) of section 101.

(B) Section 102(a).

(C) Subsections (a), (b), and (c) of section 103.

(D) Section 104.

(E) Section 105(b).

(F) Section 108.

(G) Section 109.

(H) Section 162.

(3) 2001 REINSURANCE YEAR.—The amendments made by the following provisions apply beginning with the 2001 reinsurance year:

(A) Section 101(d).

(B) Section 102(b).

(C) Section 103(d).

SEC. 172. REGULATIONS.

7 USC 1501 note.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations to carry out this Act and the amendments made by this Act.

Deadline.

7 USC 1501 note. **SEC. 173. SAVINGS CLAUSE.**

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333), as in effect on day before the date of the enactment of this Act, shall—

(1) continue to apply with respect to the 1999 crop year; and

(2) apply with respect to the 2000 crop year, to the extent the application of an amendment made by this Act is delayed under section 171(b) or by the terms of the amendment.

TITLE II—AGRICULTURAL ASSISTANCE

Subtitle A—Market Loss Assistance

7 USC 1421 note. **SEC. 201. MARKET LOSS ASSISTANCE.**

(a) **IN GENERAL.**—The Secretary of Agriculture (referred to in this title as the “Secretary”) shall use funds of the Commodity Credit Corporation to provide assistance in the form of a market loss assistance payment to owners and producers on a farm that are eligible for a final payment for fiscal year 2000 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.).

(b) **AMOUNT AND MANNER.**—In providing payments under this section, the Secretary shall—

(1) use the same contract payment rates as are used under section 802(b) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 1421 note; Public Law 106-78); and

(2) provide the payments in a manner that is consistent with section 802(c) of that Act.

Deadline.

(c) **TIMING.**—The Secretary shall make the payments required by this section not earlier than September 1, 2000, and not later than September 30, 2000.

7 USC 1421 note. **SEC. 202. OILSEEDS.**

(a) **IN GENERAL.**—The Secretary shall use \$500,000,000 of funds of the Commodity Credit Corporation to make payments to producers of the 2000 crop of oilseeds that are eligible to obtain a marketing assistance loan under section 131 of the Agricultural Market Transition Act (7 U.S.C. 7231).

(b) **COMPUTATION.**—A payment to producers on a farm under this section for an oilseed shall be equal to the product obtained by multiplying—

(1) a payment rate determined by the Secretary;

(2) the acreage of the producers on the farm for the oilseed, as determined under subsection (c); and

(3) the yield of the producers on the farm for the oilseed, as determined under subsection (d).

(c) **ACREAGE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the acreage of the producers on the farm for an oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 1997, 1998, or 1999 crop year, whichever is greatest, as reported

by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(2) **NEW PRODUCERS.**—In the case of producers on a farm that planted acreage to an oilseed during the 2000 crop year but not the 1997, 1998, or 1999 crop year, the acreage of the producers for the oilseed under subsection (b)(2) shall be equal to the number of acres planted to the oilseed by the producers on the farm during the 2000 crop year, as reported by the producers on the farm to the Secretary (including any acreage reports that are filed late).

(d) **YIELD.**—

(1) **SOYBEANS.**—Except as provided in paragraph (3), in the case of soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greatest of—

(A) the average county yield per harvested acre for each of the 1995 through 1999 crop years, excluding the crop year with the highest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1997, 1998, or 1999 crop year.

(2) **OTHER OILSEEDS.**—Except as provided in paragraph (3), in the case of oilseeds other than soybeans, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greatest of—

(A) the average national yield per harvested acre for each of the 1995 through 1999 crop years, excluding the crop year with the highest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 1997, 1998, or 1999 crop year.

(3) **NEW PRODUCERS.**—In the case of producers on a farm that planted acreage to an oilseed during the 2000 crop year but not the 1997, 1998, or 1999 crop year, the yield of the producers on a farm under subsection (b)(3) shall be equal to the greater of—

(A) the average county yield per harvested acre for each of the 1995 through 1999 crop years, excluding the crop year with the highest yield per harvested acre and the crop year with the lowest yield per harvested acre; or

(B) the actual yield of the producers on the farm for the 2000 crop.

(4) **DATA SOURCE.**—To the maximum extent available, the Secretary shall use data provided by the National Agricultural Statistics Service to carry out this subsection.

SEC. 203. SPECIALTY CROPS.

7 USC 1421 note.

(a) **REPLENISHMENT OF PERISHABLE AGRICULTURAL COMMODITIES ACT FUND.**—Of the amount made available under section 261(a)(2), \$30,450,000 shall—

(1) be deposited in the Perishable Agricultural Commodities Act Fund established by section 3(b)(5) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499c(b)(5));

(2) be merged with other amounts in the Perishable Agricultural Commodities Act Fund; and

(3) be available for the same purposes and for the same time period as other amounts in the Perishable Agricultural Commodities Act Fund.

(b) REPLENISHMENT OF TRUST FUNDS FOR SERVICES UNDER AGRICULTURAL MARKETING ACT OF 1946.—Of the amount made available under section 261(a)(2), \$29,000,000 shall—

(1) be deposited in the trust fund account established to cover the cost of inspection, certification, and identification services provided under section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h));

(2) be merged with other amounts in the trust fund account; and

(3) be available for the same purposes and for the same time period as other amounts in the trust fund account.

(c) INSPECTION SERVICES IMPROVEMENTS.—Of the amount made available under section 261(a)(2), \$11,550,000 shall be used by the Secretary to improve the infrastructure and system used for inspecting fruits and vegetables, including improving—

(1) the program used to train inspectors, including the establishment of an inspector training center;

(2) the technological resources used by inspectors;

(3) the use of digital imaging by inspectors; and

(4) the office space and grading tables used by inspectors.

(d) SURPLUS CROP PURCHASES.—

(1) PURCHASES.—Of the amount made available under section 261(a)(2), \$200,000,000 shall be used by the Secretary to purchase specialty crops that have experienced low prices during the 1998 or 1999 crop years, including apples, black-eyed peas, cherries, citrus, cranberries, onions, melons, peaches, and potatoes.

(2) DISPLACEMENT.—The Secretary shall ensure that purchases of specialty crops under this subsection will not displace purchases by the Secretary under any other law.

(e) GROWER COMPENSATION.—

(1) COMPENSATION.—Of the amount made available under section 261(a)(2), \$25,000,000 shall be used by the Secretary to compensate—

(A) growers covered by the Secretary's Declaration of Extraordinary Emergency published on March 2, 2000 (65 Fed. Reg. 11280), regarding the plum pox virus;

(B) growers for losses due to Pierce's disease; and

(C) commercial producers for losses due to citrus canker.

(2) REPORT.—Not later than July 19, 2000, the Secretary, in coordination with the Inspector General of the Department of Agriculture, shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that analyzes—

(A) the economic losses to the produce industry as a result of allegations of false inspection certificates prepared by graders of the Department of Agriculture at Hunts Point Terminal Market, Bronx, New York; and

(B) the restitution by the Secretary for persons damaged as a result of losses described in subparagraph (A).

(f) APPLE LOANS.—

Deadline.

(1) **REQUIREMENT.**—The Secretary, acting through the Farm Service Agency, shall use funds of the Commodity Credit Corporation to make loans to producers of apples that are suffering economic loss as the result of low prices for apples.

(2) **TERM.**—The term of a loan made under this subsection shall be not more than 3 years.

(3) **INTEREST RATE.**—The interest rate for a loan made under this subsection shall be at a rate equal to the then current cost of money to the Government of the United States for loans of similar maturity.

(4) **SECURITY.**—The Secretary may require a loan made under this subsection to be secured by real property or such other collateral as the Secretary considers appropriate and protects the interests of the Federal Government.

(5) **LIMITATION.**—The cost of all loans made under this subsection shall not exceed \$5,000,000.

SEC. 204. OTHER COMMODITIES.

7 USC 1421 note.

(a) PEANUTS.—

(1) **IN GENERAL.**—The Secretary shall use funds of the Commodity Credit Corporation to provide payments to producers of quota peanuts or additional peanuts to partially compensate the producers for continuing low commodity prices, and increasing costs of production, for the 2000 crop year.

(2) **AMOUNT.**—The amount of a payment made to producers on a farm of quota peanuts or additional peanuts under paragraph (1) shall be equal to the product obtained by multiplying—

(A) the quantity of quota peanuts or additional peanuts produced or considered produced by the producers; and

(B) a payment rate equal to—

(i) in the case of quota peanuts, \$30.50 per ton; and

(ii) in the case of additional peanuts, \$16.00 per ton.

(b) TOBACCO.—

(1) **DEFINITIONS.**—In this subsection:

(A) **ELIGIBLE PERSON.**—The term “eligible person” means a person that owns or operates, or produces eligible tobacco on, a farm—

(i) for which the quantity of quota of eligible tobacco allotted to the farm under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) was reduced from the 1999 crop year to the 2000 crop year; and

(ii) that is used for the production of eligible tobacco during the 2000 crop year.

(B) **ELIGIBLE TOBACCO.**—The term “eligible tobacco” means each of the following kinds of tobacco:

(i) Flue-cured tobacco, comprising types 11, 12, 13, and 14.

(ii) Fire-cured tobacco, comprising type 21.

(iii) Burley tobacco, comprising type 31.

(iv) Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 54, and 55.

Effective date.

(2) PAYMENTS.—Effective beginning October 1, 2000, the Secretary shall use \$340,000,000 of funds of the Commodity Credit Corporation to make payments to eligible persons.

(3) ALLOCATION OF FUNDS AMONG STATES.—The funds made available for eligible persons under paragraph (2) shall be allocated among States in the following dollar amounts:

Alabama	\$100,000
Arkansas	\$1,000
Florida	\$2,500,000
Georgia	\$13,000,000
Indiana	\$5,400,000
Kansas	\$23,000
Kentucky	\$140,000,000
Missouri	\$2,000,000
North Carolina	\$100,000,000
Ohio	\$6,000,000
Oklahoma	\$1,000
South Carolina	\$15,000,000
Tennessee	\$35,000,000
Virginia	\$19,000,000
Wisconsin	\$675,000
West Virginia	\$1,300,000.

(4) ALLOCATION OF FUNDS AMONG FARMS IN A STATE.—The Secretary shall divide the amount allocated to a State under paragraph (3) among farms in the State based on the quota of eligible tobacco available to each farm of an eligible person for the 2000 crop year.

Deadline.

(5) DIVISION OF FARM PAYMENTS AMONG ELIGIBLE PERSONS IN A STATE.—Not later than October 20, 2000, the Secretary shall divide amounts made available to farms in a State under paragraph (4) among eligible persons who are quota owners, quota lessees, and tobacco producers on farms in the State, and make payments to the eligible persons, on the basis of—

(A) in the case of a State that is a party to the National Tobacco Grower Settlement Trust, the formula in the Trust used to allocate funds among quota owners, quota lessees, and tobacco producers on farms in the State, with such adjustments as the Secretary determines are necessary to enable the payments to be made by October 20, 2000; or

(B) in the case of a State that is not a party to the National Tobacco Grower Settlement Trust, a formula established by the Secretary.

(6) PAYMENTS TO ELIGIBLE PERSONS IN GEORGIA.—The Secretary shall use the amount allocated to the State of Georgia under paragraph (3) to make payments to eligible persons in Georgia only if the State of Georgia agrees to use an equal amount (not to exceed \$13,000,000) to make payments at the same time, or subsequently, to the same eligible persons in the same manner as provided for the Federal payment under paragraphs (4) and (5).

(7) USE FOR ADMINISTRATIVE COSTS.—None of the funds made available under paragraphs (1) through (7) may be used to pay administrative costs incurred in carrying out those paragraphs.

(8) TRANSFER OF ALLOTMENTS.—Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by striking subsection (g) and inserting the following:

“(g) TRANSFER OF ALLOTMENTS.—Under this section, the total acreage allotted to any farm after any transfer shall not exceed 50 percent of the acreage of cropland on the farm.”.

(9) BURLEY TOBACCO INVENTORIES OF PRODUCER ASSOCIATIONS.—Section 319(c)(3) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(c)(3)) is amended—

(A) in subparagraph (B), by striking “In” and inserting “Except as provided in subparagraph (D), in”; and

(B) by adding at the end the following:

“(D) NONAPPLICABILITY OF DOWNWARD ADJUSTMENT.—

If the Secretary determines for any of the 2001 or subsequent crop years that noncommitted pool stocks of Burley tobacco are equal to or less than the reserve stock level established under this paragraph, subparagraph (B) shall not apply to the crop year for which the determination is made and all subsequent crop years.”.

(10) LIMITATIONS ON BURLEY TOBACCO QUOTA ADJUSTMENTS.—

(A) CARRY FORWARD ADJUSTMENT.—Section 319(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(e)) is amended in the fifth sentence—

(i) by striking “: *Provided*, That” and inserting “, except that (1)”; and

(ii) by inserting before the period at the end the following: “, and (2) the aggregate of such increases for all farms for any crop year may not exceed 10 percent of the national basic quota for the preceding crop year”.

(B) LEASE AND TRANSFER OF QUOTA DUE TO NATURAL DISASTERS.—Section 319(k) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(k)) is amended by adding at the end the following:

“(3) LIMITATION.—The total quantity of quota leased or transferred to a farm during a crop year under this subsection may not exceed 15 percent of the quota on the farm that existed prior to any such lease or transfer for the crop year.”.

(11) LEASE AND TRANSFER OF BURLEY TOBACCO QUOTA.—Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended by striking subsection (l) and inserting the following:

“(l) LEASE AND TRANSFER OF BURLEY TOBACCO QUOTA.—

“(1) APPROVAL BY PRODUCERS.—Notwithstanding any other provision of this section, the Secretary may permit the lease and transfer of a Burley tobacco quota from one farm in a State to any other farm in the State if, in a State-wide referendum conducted by the Secretary, a majority of the active Burley tobacco producers voting in the referendum approve the use of that type of lease and transfer.

“(2) APPLICATION.—This subsection shall apply only to the States of Tennessee, Ohio, Indiana, Kentucky, and Virginia.”.

State listing.

(12) RECORDKEEPING AND SALE OF BURLEY TOBACCO QUOTA AND ACREAGE.—Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended by adding at the end the following:

“(m) COMPUTERIZED RECORDKEEPING SYSTEM FOR BURLEY TOBACCO QUOTA AND ACREAGE.—

“(1) PRODUCER REPORTS.—Each person that owns a farm for which a Burley tobacco marketing quota is established under this Act shall annually file with the Secretary a report describing the acreage planted to Burley tobacco on the farm.

“(2) COMPUTERIZED RECORDKEEPING SYSTEM.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall establish a computerized recordkeeping system that contains all information reported under paragraph (1) and related records, as determined by the Secretary.

“(n) SALE OF BURLEY TOBACCO QUOTA.—Notwithstanding any other provision of this section, if a person that owns a farm for which a Burley tobacco marketing quota is established under this Act sells all or part of the acreage on the farm to a buyer, the Secretary shall permit the seller and buyer of the acreage to determine the percentage of the quota that is transferred with the acreage sold.”.

(c) HONEY.—

(1) IN GENERAL.—The Secretary shall use funds of the Commodity Credit Corporation to make available recourse loans to producers of the 2000 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary.

(2) LOAN RATE.—The loan rate for a loan under paragraph (1) shall be equal to 85 percent of the average price of honey during the 5-crop year period preceding the 2000 crop year, excluding the crop year in which the average price of honey was the highest and the crop year in which the average price of honey was the lowest in the period.

(d) WOOL AND MOHAIR.—

(1) IN GENERAL.—The Secretary shall use funds of the Commodity Credit Corporation to make payments to producers of wool, and producers of mohair, for the 1999 marketing year.

(2) PAYMENT RATE.—The payment rate for payments made to producers under paragraph (1) shall be equal to—

(A) in the case of wool, 20 cents per pound; and

(B) in the case of mohair, 40 cents per pound.

(e) COTTONSEED.—The Secretary shall use \$100,000,000 of funds of the Commodity Credit Corporation to provide assistance to producers and first-handlers of the 2000 crop of cottonseed.

7 USC 1421 note.

SEC. 205. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS.

(a) ELIGIBLE PRODUCERS.—Effective for the 2001 crop year, in the case of a producer that would be eligible for a loan deficiency payment under section 135 of the Agricultural Market Transition Act (7 U.S.C. 7235) for wheat, barley, or oats, but that elects to use acreage planted to the wheat, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of the wheat, barley, or oats on that acreage.

(b) PAYMENT AMOUNT.—The amount of a payment made to a producer on a farm under this section shall be equal to the amount determined by multiplying—

(1) the loan deficiency payment rate determined under section 135(c) of the Agricultural Market Transition Act (7 U.S.C. 7235(c)) in effect, as of the date of the agreement, for the county in which the farm is located; by

(2) the payment quantity determined by multiplying—

(A) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of wheat, barley, or oats; and

(B) the greater of—

(i) the established yield for the crop on the farm; or

(ii) the average county yield per harvested acre of the crop, as determined by the Secretary.

(c) TIME, MANNER, AND AVAILABILITY OF PAYMENT.—

(1) TIME AND MANNER.—A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 135 of the Agricultural Market Transition Act (7 U.S.C. 7235), except that the payment shall be made not later than September 30, 2001.

(2) AVAILABILITY.—The Secretary shall establish an availability period for the payment authorized by this section that is consistent with the availability period for wheat, barley, and oats established by the Secretary for marketing assistance loans authorized by subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.).

(d) REGULATIONS.—The Secretary shall promulgate under section 263 such regulations as are necessary to administer the payments authorized by this section in a fair and equitable manner with respect to producers of wheat and feed grains that do not receive a payment under this section.

(e) FUNDING.—The Secretary shall use funds of the Commodity Credit Corporation to carry out this section.

SEC. 206. EXPANSION OF PRODUCERS ELIGIBLE FOR LOAN DEFICIENCY PAYMENTS.

7 USC 1421 note.

(a) ELIGIBLE PRODUCERS.—Section 135(a) of the Agricultural Market Transition Act (7 U.S.C. 7235(a)) is amended—

(1) by striking “to producers” and inserting “to—

“(1) producers”;

(2) by striking the period at the end and inserting “; and”;

and

(3) by adding at the end the following:

“(2) effective only for the 2000 crop year, producers that, although not eligible to obtain such a marketing assistance loan under section 131, produce a contract commodity.”.

(b) CALCULATION.—Section 135(b)(2) of the Agricultural Market Transition Act (7 U.S.C. 7235(b)(2)) is amended by striking “that the producers” and all that follows through the period at the end and inserting the following: “produced by the eligible producers, excluding any quantity for which the producers obtain a loan under section 131.”.

(c) TRANSITION; BENEFICIAL INTEREST.—Section 135 of the Agricultural Market Transition Act (7 U.S.C. 7235) is amended by adding at the end the following:

“(e) TRANSITION.—A payment to a producer eligible for a payment under subsection (a)(2) that harvested a commodity on or before the date that is 30 days after the promulgation of the regulations implementing subsection (a)(2) shall be determined as the date the producer lost beneficial interest in the commodity, as determined by the Secretary.

“(f) BENEFICIAL INTEREST.—Subject to subsection (e), a producer shall be eligible for a payment under this section only if the producer

has a beneficial interest in the commodity, as determined by the Secretary.”.

Subtitle B—Conservation

16 USC 3830
note.

SEC. 211. CONSERVATION ASSISTANCE.

(a) FARMLAND PROTECTION.—For the purposes described in section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104-127), the Secretary shall use \$10,000,000 of funds of the Commodity Credit Corporation to make payments to—

(1) any agency of any State or local government, or federally recognized Indian tribe, including farmland protection boards and land resource councils established under State law; and

(2) any organization that—

(A) is organized for, and at all times since the formation of the organization has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

(C) is described in section 509(a)(2) of that Code; or

(D) is described in section 509(a)(3) of that Code and is controlled by an organization described in section 509(a)(2) of that Code.

(b) SOIL AND WATER CONSERVATION ASSISTANCE.—

(1) ESTABLISHMENT.—The Secretary shall use \$40,000,000 of funds of the Commodity Credit Corporation to provide financial assistance to farmers and ranchers to—

(A) address threats to soil, water, and related natural resources, including grazing land, wetland, and wildlife habitat;

(B) comply with Federal and State environmental laws; and

(C) make beneficial, cost-effective changes to cropping systems, grazing management, manure, nutrient, pest, or irrigation management, land uses, or other measures needed to conserve and improve soil, water, and related natural resources.

(2) TYPE OF ASSISTANCE.—Assistance under this subsection may be made in the form of cost share payments or incentive payments, as determined by the Secretary.

(3) AREAS.—The Secretary shall provide assistance under this subsection to areas that are not designated under section 1230(c) of the Food Security Act of 1985 (16 U.S.C. 3830(c)).

SEC. 212. CONDITION ON DEVELOPMENT OF LITTLE DARBY NATIONAL WILDLIFE REFUGE, OHIO.

The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall prepare an environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) before proceeding with any further development of the Little Darby National Wildlife Refuge in Madison and Union Counties, Ohio.

Subtitle C—Research

SEC. 221. CARBON CYCLE RESEARCH.

(a) **IN GENERAL.**—Of the amount made available under section 261(a)(2), the Secretary shall use \$15,000,000 to provide a grant to the Consortium for Agricultural Soils Mitigation of Greenhouse Gases, acting through Kansas State University, to develop, analyze, and implement, through the land grant universities described in subsection (b), carbon cycle research at the national, regional, and local levels.

(b) **LAND GRANT UNIVERSITIES.**—The land grant universities referred to in subsection (a) are the following:

- (1) Colorado State University.
- (2) Iowa State University.
- (3) Kansas State University.
- (4) Michigan State University.
- (5) Montana State University.
- (6) Purdue University.
- (7) Ohio State University.
- (8) Texas A&M University.
- (9) University of Nebraska.

(c) **USE.**—Land grant universities described in subsection (b) shall use funds made available under this section—

(1) to conduct research to improve the scientific basis of using land management practices to increase soil carbon sequestration, including research on the use of new technologies to increase carbon cycle effectiveness, such as biotechnology and nanotechnology;

(2) to enter into partnerships to identify, develop, and evaluate agricultural best practices, including partnerships between—

- (A) Federal, State, or private entities; and
- (B) the Department of Agriculture;

(3) to develop necessary computer models to predict and assess the carbon cycle;

(4) to estimate and develop mechanisms to measure carbon levels made available as a result of—

- (A) voluntary Federal conservation programs;
- (B) private and Federal forests; and
- (C) other land uses;

(5) to develop outreach programs, in coordination with Extension Services, to share information on carbon cycle and agricultural best practices that is useful to agricultural producers; and

(6) to collaborate with the Great Plains Regional Earth Science Application Center to develop a space-based carbon cycle remote sensing technology program to—

- (A) provide, on a near-continual basis, a real-time and comprehensive view of vegetation conditions;
- (B) assess and model agricultural carbon sequestration; and
- (C) develop commercial products.

(d) **ADMINISTRATIVE COSTS.**—Not more than 3 percent of the funds made available under subsection (a) may be used by the Secretary to pay administrative costs incurred in carrying out this section.

SEC. 222. TOBACCO RESEARCH FOR MEDICINAL PURPOSES.

(a) **ASSISTANCE.**—Of the amount made available under section 261(a)(2), the Secretary, acting through the Cooperative State Research, Education, and Extension Service, shall use \$3,000,000 to provide a grant jointly to Georgetown University and North Carolina State University to conduct research regarding the extraction and purification of proteins from genetically altered tobacco that may be used as a vaccine for cervical cancer.

(b) **RELATION TO OTHER LAW.**—The Secretary may make the grant described in subsection (a) notwithstanding any general prohibition on the use of appropriated funds to carry out research related to the production, processing, or marketing of tobacco or tobacco products.

SEC. 223. RESEARCH ON SOIL SCIENCE AND FOREST HEALTH MANAGEMENT.

Of the amount made available under section 261(a)(2), the Secretary shall use \$10,000,000 to provide a grant to the University of Nebraska in Lincoln, Nebraska, for laboratories and equipment for research on soil science and forest health and management.

SEC. 224. RESEARCH ON WASTE STREAMS FROM LIVESTOCK PRODUCTION.

Of the amount made available under section 261(a)(2), the Secretary shall use \$3,500,000 to expand current research related to technologies for—

(1) reducing, modifying, recycling, and using waste streams from livestock production; and

(2) eliminating associated air, water, and soil quality problems.

SEC. 225. IMPROVED STORAGE AND MANAGEMENT OF LIVESTOCK AND POULTRY WASTE.

(a) **ASSISTANCE.**—Of the amount made available under section 261(a)(2), the Secretary shall use \$5,000,000—

(1) to review and assess the actual or potential failure of waste storage and handling systems used in livestock or poultry production and the environmental damages associated with the failure of the systems; and

(2) to study and demonstrate appropriate market-oriented mechanisms to assist livestock producers and poultry producers to prevent the failure of the systems and rectify environmental damages associated with the failure of the systems.

(b) **IMPLEMENTATION.**—The Secretary shall carry out this section through grants, contracts, and cooperative agreements with livestock producers, poultry producers, associations of such producers, and foundations supported by such producers.

SEC. 226. ETHANOL RESEARCH PILOT PLANT.

Of the amount made available under section 261(a)(2), the Secretary shall use \$14,000,000 to provide a grant to the State of Illinois to complete the construction of a corn-based ethanol research pilot plant (Agreement No. 59-3601-7-078) at Southern Illinois University, Edwardsville, Illinois.

SEC. 227. BIOINFORMATICS INSTITUTE FOR MODEL PLANT SPECIES.

(a) **ESTABLISHMENT AND PURPOSE.**—The Secretary, acting through the Agricultural Research Service, may enter into a

Grants.
Contracts.

cooperative agreement with the National Center for Genome Resources in Santa Fe, New Mexico, New Mexico State University, and Iowa State University, for the establishment and operation of an institute (to be known as the "Bioinformatics Institute for Model Plant Species") in Santa Fe, New Mexico, for the purpose of enhancing the accessibility and utility of genomic information for plant genetic research.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) \$3,000,000 for the purpose of establishing the Institute under subsection (a); and

(2) such sums as may be necessary for each fiscal year to carry out the cooperative agreement authorized by subsection (a).

Subtitle D—Agricultural Marketing

SEC. 231. VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT GRANTS.

7 USC 1621 note.

(a) GRANT PROGRAM.—

(1) ESTABLISHMENT AND PURPOSES.—Of the amount made available under section 261(a)(2), \$15,000,000 shall be used by the Secretary to award competitive grants to eligible independent producers (as determined by the Secretary) of value-added agricultural commodities and products of agricultural commodities to assist an eligible producer—

(A) to develop a business plan for viable marketing opportunities for a value-added agricultural commodity or product of an agricultural commodity; or

(B) to develop strategies for the ventures that are intended to create marketing opportunities for the producers.

(2) AMOUNT OF GRANT.—The total amount provided under this subsection to a grant recipient may not exceed \$500,000.

(3) PRODUCER STRATEGIES.—A producer that receives a grant under paragraph (1) shall use the grant—

(A) to develop a business plan or perform a feasibility study to establish a viable marketing opportunity for a value-added agricultural commodity or product of an agricultural commodity; or

(B) to provide capital to establish alliances or business ventures that allow the producer to better compete in domestic or international markets.

(b) AGRICULTURAL MARKETING RESOURCE CENTER PILOT PROJECT.—

(1) ESTABLISHMENT.—Notwithstanding the limitation on grants in subsection (a)(2), the Secretary shall not use more than \$5,000,000 of the funds made available under subsection (a) to establish a pilot project (to be known as the "Agricultural Marketing Resource Center") at an eligible institution described in paragraph (2) that will—

(A) develop a resource center with electronic capabilities to coordinate and provide to independent producers and processors (as determined by the Secretary) of value-

added agricultural commodities and products of agricultural commodities information regarding research, business, legal, financial, or logistical assistance; and

(B) develop a strategy to establish a nationwide market information and coordination system.

(2) **ELIGIBLE INSTITUTION.**—To be eligible to receive funding to establish the Agricultural Marketing Resource Center, an applicant shall demonstrate to the Secretary—

(A) the capacity and technical expertise to provide the services described in paragraph (1)(A);

(B) an established plan outlining support of the applicant in the agricultural community; and

(C) the availability of resources (in cash or in kind) of definite value to sustain the Center following establishment.

(c) **MATCHING FUNDS.**—A recipient of funds under subsection (a) or (b) shall contribute an amount of non-Federal funds that is at least equal to the amount of Federal funds received.

(d) **LIMITATION.**—Funds provided under this section may not be used for—

(1) planning, repair, rehabilitation, acquisition, or construction of a building or facility (including a processing facility); or

(2) the purchase, rental, or installation of fixed equipment.

Subtitle E—Nutrition Programs

SEC. 241. CALCULATION OF MINIMUM AMOUNT OF COMMODITIES FOR SCHOOL LUNCH REQUIREMENTS.

(a) **FISCAL YEAR 2000.**—Notwithstanding any other provision of law, in addition to any assistance provided under any other provision of law, of the amount made available under section 261(a)(1), the Secretary shall use \$34,000,000 in fiscal year 2000 to purchase commodities of the type provided under section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755) for distribution to schools participating in the school lunch program established under that Act (42 U.S.C. 1751 et seq.).

(b) **FISCAL YEAR 2001.**—Section 6(e)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)(B)) is amended by striking “2000” and inserting “2001”.

(c) **ADDITIONAL COMMODITIES IN FISCAL YEAR 2001.**—Notwithstanding any other provision of law, in addition to any assistance provided under any other provision of law (including the amendment made by subsection (b)), of the amount made available under section 261(a)(2), the Secretary shall use \$21,000,000 in fiscal year 2001 to purchase commodities of the type provided under section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755) for distribution to schools participating in the school lunch program established under that Act (42 U.S.C. 1751 et seq.).

(d) **DISTRIBUTION TO SCHOOLS.**—The commodities purchased under subsections (a) and (c) shall, to the maximum extent practicable, be distributed in the same manner as commodities are distributed under section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755).

SEC. 242. SCHOOL LUNCH DATA.**(a) LIMITED WAIVER OF CONFIDENTIALITY REQUIREMENT.—**

(1) **IN GENERAL.**—Section 9(b)(2)(C)(iii) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(2)(C)(iii)) is amended—

- (A) in subclause (II), by striking “and” at the end;
- (B) in subclause (III), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(IV) a person directly connected with the administration of the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or the State children’s health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.) solely for the purpose of identifying children eligible for benefits under, and enrolling children in, such programs, except that this subclause shall apply only to the extent that the State and the school food authority so elect.”.

(2) **CERTIFICATION AND NOTIFICATION.**—Section 9(b)(2)(C) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(2)(C)) is amended by adding at the end the following:

“(vi) **REQUIREMENTS FOR WAIVER OF CONFIDENTIALITY.**—A State that elects to exercise the option described in clause (iii)(IV) shall ensure that any school food authority acting in accordance with that option—

“(I) has a written agreement with the State or local agency or agencies administering health insurance programs for children under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.) that requires the health agencies to use the information obtained under clause (iii) to seek to enroll children in those health insurance programs; and

“(II)(aa) notifies each household, the information of which shall be disclosed under clause (iii), that the information disclosed will be used only to enroll children in health programs referred to in clause (iii)(IV); and

“(bb) provides each parent or guardian of a child in the household with an opportunity to elect not to have the information disclosed.

“(vii) **USE OF DISCLOSED INFORMATION.**—A person to which information is disclosed under clause (iii)(IV) shall use or disclose the information only as necessary for the purpose of enrolling children in health programs referred to in clause (iii)(IV).”.

(b) DEMONSTRATION PROJECT.—

(1) **IN GENERAL.**—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by adding at the end the following:

“(r) **DEMONSTRATION PROJECT RELATING TO USE OF THE WIC PROGRAM FOR IDENTIFICATION AND ENROLLMENT OF CHILDREN IN CERTAIN HEALTH PROGRAMS.**—

“(1) **IN GENERAL.**—In accordance with paragraph (2), the Secretary shall establish a demonstration project in at least

20 local agencies in one State under which costs of nutrition services and administration (as defined in subsection (b)(4)) shall include the costs of identification of children eligible for benefits under, and the provision of enrollment assistance for children in—

“(A) the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

“(B) the State children’s health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.).

“(2) STATE-RELATED REQUIREMENTS.—The State in which a demonstration project is established under paragraph (1)—

“(A) shall operate not fewer than 20 pilot site locations;

“(B) as of the date of establishment of the demonstration project—

“(i) with respect to the programs referred to in subparagraphs (A) and (B) of paragraph (1)—

“(I) shall have in use a simplified application form with a length of not more than two pages;

“(II) shall accept mail-in applications; and

“(III) shall permit enrollment in the program in a variety of locations; and

“(ii) shall have served as an original pilot site for the program under this section; and

“(C) as of December 31, 1998, shall have had—

“(i) an infant mortality rate that is above the national average; and

“(ii) an overall rate of age-appropriate immunizations against vaccine-preventable diseases that is below 80 percent.

“(3) TERMINATION OF AUTHORITY.—The authority provided by this subsection terminates September 30, 2003.”.

(2) TECHNICAL AMENDMENTS.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(A) in subsection (b)(4), by striking “(4)” and all that follows through “means” and inserting “(4) ‘Costs of nutrition services and administration’ or ‘nutrition services and administration’ means”; and

(B) in subsection (h)(1)(A), by striking “costs incurred by State and local agencies for nutrition services and administration” and inserting “costs of nutrition services and administration incurred by State and local agencies”.

(3) GRANT FOR DEMONSTRATION PROJECT.—Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end the following:

“(p) GRANT FOR DEMONSTRATION PROJECT.—

“(1) USE OF FUNDS FOR WIC DEMONSTRATION PROJECT.—

“(A) IN GENERAL.—The Secretary shall make grants of funds under this subsection to a State—

“(i) for purposes that include carrying out the demonstration project under section 17(r) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(r)); and

“(ii) for the purpose described in clause (i), in amounts not to exceed \$10,000 for each fiscal year for each site in the State.

“(B) APPORTIONMENT.—A State that receives a grant under subparagraph (A) shall apportion the funds received

to ensure that each site in the State receives not more than \$10,000 for any fiscal year.

“(2) EVALUATIONS OF DEMONSTRATION PROJECT.—The Secretary shall conduct an evaluation of the demonstration project and grant program for identification and enrollment efforts funded under this subsection that include a determination of—

“(A) the number of children enrolled as a result of the enactment of this subsection;

“(B) the income levels of the families of enrolled children;

“(C) the cost of identification and enrollment assistance services provided under the project or grant program;

“(D) the effect on the caseloads of local agencies that carry out the special supplemental nutrition program for woman, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

“(E) such other factors as the Secretary determines to be appropriate.

“(3) FUNDING.—

“(A) IN GENERAL.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary to carry out this subsection \$1,000,000 for the period of fiscal years 2001 through 2004, to remain available until expended but not later than September 30, 2004.

“(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive the funds and shall accept the funds provided under subparagraph (A), without further appropriation.”

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2000.

42 USC 1758
note.

SEC. 243. CHILD AND ADULT CARE FOOD PROGRAM INTEGRITY.

(a) DEFINITION OF INSTITUTION; EXCLUSION OF SERIOUSLY DEFICIENT INSTITUTIONS.—Section 17(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(a)) is amended—

(1) by striking “(a) The Secretary” and inserting the following:

“(a) GRANT AUTHORITY AND INSTITUTION ELIGIBILITY.—

“(1) GRANT AUTHORITY.—The Secretary”;

(2) by striking the second and third sentences and inserting the following:

“(2) DEFINITION OF INSTITUTION.—In this section, the term ‘institution’ means—

“(A) any public or private nonprofit organization providing nonresidential child care or day care outside school hours for school children, including any child care center, settlement house, recreational center, Head Start center, and institution providing child care facilities for children with disabilities;

“(B) any other private organization providing nonresidential child care or day care outside school hours for school children for which the organization receives compensation from amounts granted to the States under title XX of the Social Security Act (42 U.S.C. 1397 et seq.) (but only if the organization receives compensation under

that title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less);

“(C) any public or private nonprofit organization acting as a sponsoring organization for one or more of the organizations described in subparagraph (A) or (B) or for an adult day care center (as defined in subsection (o)(2));

“(D) any other private organization acting as a sponsoring organization for, and that is part of the same legal entity as, one or more organizations that are—

“(i) described in subparagraph (B); or

“(ii) proprietary title XIX or title XX centers (as defined in subsection (o)(2));

“(E) any public or private nonprofit organization acting as a sponsoring organization for one or more family or group day care homes; and

“(F) any emergency shelter (as defined in subsection (t)).”;

(3) by striking “Except as provided in subsection (r),” and inserting the following:

“(3) AGE LIMIT.—Except as provided in subsection (r),”;

(4) by striking “The Secretary may establish separate guidelines” and inserting the following:

“(4) ADDITIONAL GUIDELINES.—The Secretary may establish separate guidelines”;

(5) by striking “For purposes of determining” and all that follows through “an institution” and inserting the following:

“(5) LICENSING.—In order to be eligible, an institution”;

and

(6) by striking “standards; and” and inserting “standards.”;

(7) by striking “(2) no institution” and inserting the following:

“(6) ELIGIBILITY CRITERIA.—No institution”; and

(8) in paragraph (6) (as so designated)—

(A) in subparagraph (B), by inserting “, or has not been determined to be ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program” before “, for a period”;

(B) in subparagraph (C)—

(i) by inserting “(i)” after “(C)”; and

(ii) by adding at the end the following:

“(ii) in the case of a sponsoring organization, the organization shall employ an appropriate number of monitoring personnel based on the number and characteristics of child care centers and family or group day care homes sponsored by the organization, as approved by the State (in accordance with regulations promulgated by the Secretary), to ensure effective oversight of the operations of the child care centers and family or group day care homes; and”;

(C) in subparagraph (D), by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

“(E) in the case of a sponsoring organization, the organization has in effect a policy that restricts other employment by employees that interferes with the responsibilities and duties of the employees of the organization with respect to the program; and

“(F) in the case of a sponsoring organization that applies for initial participation in the program on or after the date of the enactment of this subparagraph and that operates in a State that requires such institutions to be bonded under State law, regulation, or policy, the institution is bonded in accordance with such law, regulation, or policy.”.

(b) INSTITUTION APPROVAL AND APPLICATIONS.—

(1) IN GENERAL.—Section 17(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(d)) is amended by striking the subsection designation and all that follows through the end of paragraph (1) and inserting the following:

“(d) INSTITUTION APPROVAL AND APPLICATIONS.—

“(1) INSTITUTION APPROVAL.—

“(A) ADMINISTRATIVE CAPABILITY.—Subject to subparagraph (B) and except as provided in subparagraph (C), the State agency shall approve an institution that meets the requirements of this section for participation in the child and adult care food program if the State agency determines that the institution—

“(i) is financially viable;

“(ii) is administratively capable of operating the program (including whether the sponsoring organization has business experience and management plans appropriate to operate the program) described in the application of the institution; and

“(iii) has internal controls in effect to ensure program accountability.

“(B) APPROVAL OF PRIVATE INSTITUTIONS.—

“(i) IN GENERAL.—In addition to the requirements established by subparagraph (A) and subject to clause (ii), the State agency shall approve a private institution that meets the requirements of this section for participation in the child and adult care food program only if—

“(I) the State agency conducts a satisfactory visit to the institution before approving the participation of the institution in the program; and

“(II) the institution—

“(aa) has tax exempt status under the Internal Revenue Code of 1986;

“(bb) is operating a Federal program requiring nonprofit status to participate in the program; or

“(cc) is described in subsection (a)(2)(B).

“(ii) EXCEPTION FOR FAMILY OR GROUP DAY CARE HOMES.—Clause (i) shall not apply to a family or group day care home.

“(C) EXCEPTION FOR CERTAIN SPONSORING ORGANIZATIONS.—

“(i) IN GENERAL.—The State agency may approve an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not participating in the child and adult care food program only if the State agency determines that—

“(I) the institution meets the requirements established by subparagraphs (A) and (B); and

“(II) the participation of the institution will help to ensure the delivery of benefits to otherwise unserved family or group day care homes or centers or to unserved children in an area.

“(ii) CRITERIA FOR SELECTION.—The State agency shall establish criteria for approving an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not participating in the child and adult care food program for the purpose of determining if the participation of the institution will help ensure the delivery of benefits to otherwise unserved family or group day care homes or centers or to unserved children in an area.

Deadline.

“(D) NOTIFICATION TO APPLICANTS.—Not later than 30 days after the date on which an applicant institution files a completed application with the State agency, the State agency shall notify the applicant institution whether the institution has been approved or disapproved to participate in the child and adult care food program.”

(2) SITE VISITS.—Section 17(d)(2)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(d)(2)(A)) is amended—

(A) in clause (i), by striking “; and” and inserting a semicolon;

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

“(ii)(I) requires periodic unannounced site visits at not less than 3-year intervals to sponsored child care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program;

“(II) requires at least one scheduled site visit each year to sponsored child care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations; and

“(III) requires at least one scheduled site visit at not less than 3-year intervals to sponsoring organizations and nonsponsored child care centers to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations; and”.

(3) CONFORMING AMENDMENT.—Section 17(d)(2)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(d)(2)(B)) is amended by striking “subsection (a)(1)” and inserting “subsection (a)(5)”.

(4) PROGRAM INFORMATION.—

(A) IN GENERAL.—Section 17(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(d)) is amended by adding at the end the following:

“(3) PROGRAM INFORMATION.—

“(A) IN GENERAL.—On enrollment of a child in a sponsored child care center or family or group day care home participating in the program, the center or home (or its sponsoring organization) shall provide to the child’s parents or guardians—

“(i) information that describes the program and its benefits; and

“(ii) the name and telephone number of the sponsoring organization of the center or home and the State agency involved in the operation of the program.

“(B) FORM.—The information described in subparagraph (A) shall be in a form and, to the maximum extent practicable, language easily understandable by the child’s parents or guardians.”

(B) EFFECTIVE DATE.—In the case of a child that is enrolled in a sponsored child care center or family or group day care home participating in the child and adult care food program under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) before the date of the enactment of this Act, the center or home shall provide information to the child’s parents or guardians pursuant to section 17(d)(3) of that Act, as added by subparagraph (A), not later than 90 days after the date of the enactment of this Act.

Deadline.
42 USC 1766
note.

(5) ALLOWABLE ADMINISTRATIVE EXPENSES FOR SPONSORING ORGANIZATIONS.—Section 17(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(d)), as amended by paragraph (4)(A), is amended by adding at the end the following:

“(4) ALLOWABLE ADMINISTRATIVE EXPENSES FOR SPONSORING ORGANIZATIONS.—In consultation with State agencies and sponsoring organizations, the Secretary shall develop, and provide for the dissemination to State agencies and sponsoring organizations of, a list of allowable reimbursable administrative expenses for sponsoring organizations under the program.”

(c) TERMINATION OR SUSPENSION OF PARTICIPATING ORGANIZATIONS.—Section 17(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(d)), as amended by subsection (b)(5), is amended by adding at the end the following:

“(5) TERMINATION OR SUSPENSION OF PARTICIPATING ORGANIZATIONS.—

“(A) IN GENERAL.—The Secretary shall establish procedures for the termination of participation by institutions and family or group day care homes under the program.

Procedures.

“(B) STANDARDS.—Procedures established pursuant to subparagraph (A) shall include standards for terminating the participation of an institution or family or group day care home that—

“(i) engages in unlawful practices, falsifies information provided to the State agency, or conceals a criminal background; or

“(ii) substantially fails to fulfill the terms of its agreement with the State agency.

“(C) CORRECTIVE ACTION.—Procedures established pursuant to subparagraph (A)—

“(i) shall require an entity described in subparagraph (B) to undertake corrective action; and

“(ii) may require the immediate suspension of operation of the program by an entity described in subparagraph (B), without the opportunity for corrective action, if the State agency determines that there is imminent threat to the health or safety of a participant at the

entity or the entity engages in any activity that poses a threat to public health or safety.

“(D) HEARING.—An institution or family or group day care home shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to terminate participation by the institution or family or group day care home under the program.

Records.

“(E) LIST OF DISQUALIFIED INSTITUTIONS AND INDIVIDUALS.—

“(i) IN GENERAL.—The Secretary shall maintain a list of institutions, sponsored family or group day care homes, and individuals that have been terminated or otherwise disqualified from participation in the program.

“(ii) AVAILABILITY.—The Secretary shall make the list available to State agencies for use in approving or renewing applications by institutions, sponsored family or group day care homes, and individuals for participation in the program.”.

(d) RECOVERY OF AMOUNTS FROM INSTITUTIONS.—Section 17(f)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(1)) is amended—

(1) by striking “(f)(1) Funds paid” and inserting the following:

“(f) STATE DISBURSEMENTS TO INSTITUTIONS.—

“(1) IN GENERAL.—

“(A) REQUIREMENT.—Funds paid”; and

(2) by adding at the end the following:

“(B) FRAUD OR ABUSE.—

“(i) IN GENERAL.—The State may recover funds disbursed under subparagraph (A) to an institution if the State determines that the institution has engaged in fraud or abuse with respect to the program or has submitted an invalid claim for reimbursement.

“(ii) PAYMENT.—Amounts recovered under clause (i)—

“(I) may be paid by the institution to the State over a period of one or more years; and

“(II) shall not be paid from funds used to provide meals and supplements.

“(iii) HEARING.—An institution shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to recover funds under this subparagraph.”.

(e) LIMITATION ON ADMINISTRATIVE EXPENSES FOR CERTAIN SPONSORING ORGANIZATIONS.—Section 17(f)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(2)) is amended by adding at the end the following:

“(C) LIMITATION ON ADMINISTRATIVE EXPENSES FOR CERTAIN SPONSORING ORGANIZATIONS.—

“(i) IN GENERAL.—Except as provided in clause (ii), a sponsoring organization of a day care center may reserve not more than 15 percent of the funds provided under paragraph (1) for the administrative expenses of the organization.

“(ii) WAIVER.—A State may waive the requirement in clause (i) with respect to a sponsoring organization

if the organization provides justification to the State that the organization requires funds in excess of 15 percent of the funds provided under paragraph (1) to pay the administrative expenses of the organization.”.

(f) LIMITATIONS ON ABILITY OF FAMILY OR GROUP DAY CARE HOMES TO TRANSFER SPONSORING ORGANIZATIONS.—Section 17(f)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)) is amended by striking subparagraph (D) and inserting the following:

“(D) LIMITATIONS ON ABILITY OF FAMILY OR GROUP DAY CARE HOMES TO TRANSFER SPONSORING ORGANIZATIONS.—

“(i) IN GENERAL.—Subject to clause (ii), a State agency shall limit the ability of a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year.

“(ii) GOOD CAUSE.—The State agency may permit or require a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year for good cause (as determined by the State agency), including circumstances in which the sponsoring organization of the family or group day care home ceases to participate in the child and adult care food program.”.

(g) STATE-WIDE DEMONSTRATION PROJECTS INVOLVING PRIVATE FOR-PROFIT ORGANIZATIONS THAT PROVIDE NONRESIDENTIAL DAY CARE SERVICES.—

(1) IN GENERAL.—Section 17(p) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(p)) is amended—

(A) in the first sentence of paragraph (1), by striking “2 statewide demonstration projects” and inserting “State-wide demonstration projects in three States”; and

(B) in paragraph (3)—

(i) by inserting “in” after “subsection”;

(ii) in subparagraph (A), by striking “and” at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(iv) by adding at the end the following:

“(C) one other State—

“(i) with fewer than 60,000 children below 5 years of age;

“(ii) that serves more than the national average proportion of children potentially eligible for assistance provided under the Child Care and Development Fund (as indicated in data published by the Department of Health and Human Services in October 1999);

“(iii) that exempts all families from cost sharing requirements under programs funded by the Child Care and Development Fund; and

“(iv) in which State spending represents more than 50 percent of total expenditures made under the Child Care and Development Fund.”.

(2) EFFECTIVE DATE.—The Secretary may carry out demonstration projects in the State described in section 17(p)(3)(C) of the Richard B. Russell National School Lunch Act, as added

by paragraph (1)(B)(iv), beginning not earlier than October 1, 2001.

(h) TECHNICAL AND TRAINING ASSISTANCE FOR IDENTIFICATION AND PREVENTION OF FRAUD AND ABUSE.—Section 17(q) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(q)) is amended—

- (1) by redesignating paragraph (2) as paragraph (3); and
- (2) by inserting after paragraph (1) the following:

“(2) TECHNICAL AND TRAINING ASSISTANCE FOR IDENTIFICATION AND PREVENTION OF FRAUD AND ABUSE.—As part of training and technical assistance provided under paragraph (1), the Secretary shall provide training on a continuous basis to State agencies, and shall ensure that such training is provided to sponsoring organizations, for the identification and prevention of fraud and abuse under the program and to improve management of the program.”.

(i) PROGRAM FOR AT-RISK SCHOOL CHILDREN.—Section 17(r) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(r)) is amended—

- (1) in paragraph (2), by inserting “meals or” before “supplements”;

- (2) in paragraph (4)—

(A) in the heading, by striking “SUPPLEMENT” and inserting “MEAL AND SUPPLEMENT”;

(B) in subparagraph (A)—

(i) by striking “only for” and all that follows through “(i) a supplement” and inserting “only for one meal per child per day and one supplement per child per day”;

(ii) by striking “; and” and inserting a period; and

(iii) by striking clause (ii);

(C) in subparagraph (B), by striking “RATE.—A supplement” and inserting the following: “RATES.—

“(i) MEALS.—A meal shall be reimbursed under this subsection at the rate established for free meals under subsection (c).

“(ii) SUPPLEMENTS.—A supplement”; and

(D) in subparagraph (C), by inserting “meal or” before “supplement”; and

- (3) by adding at the end the following:

“(5) LIMITATION.—The Secretary shall limit reimbursement under this subsection for meals served under a program to institutions located in six States, of which four States shall be Pennsylvania, Missouri, Delaware, and Michigan and two States shall be approved by the Secretary through a competitive application process.”.

(j) WITHHOLDING OF FUNDS FOR FAILURE TO PROVIDE SUFFICIENT TRAINING, TECHNICAL ASSISTANCE, AND MONITORING.—Section 7(a)(9)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(9)(A)) is amended by inserting after “the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.)” the following: “(including any requirement to provide sufficient training, technical assistance, and monitoring of the child and adult care food program under section 17 of that Act (42 U.S.C. 1766))”.

SEC. 244. ADJUSTMENTS TO WIC PROGRAM.

(a) **DEFINITION.**—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by adding at the end the following:

“(21) **REMOTE INDIAN OR NATIVE VILLAGE.**—The term ‘remote Indian or Native village’ means an Indian or Native village that—

“(A) is located in a rural area;

“(B) has a population of less than 5,000 inhabitants;

and

“(C) is not accessible year-around by means of a public road (as defined in section 101 of title 23, United States Code).”.

(b) **COST-OF-LIVING ALLOWANCES FOR MEMBERS OF UNIFORMED SERVICES.**—Section 17(d)(2)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(B)) is amended—

(1) by striking “income any” and inserting “income—

“(i) any”;

(2) by striking “quarters” and inserting “housing”;

(3) by striking the period at the end and inserting “; and”;

and

(4) by adding at the end the following:

“(ii) any cost-of-living allowance provided under section 405 of title 37, United States Code, to a member of a uniformed service who is on duty outside the continental United States.”.

(c) **PROOF OF RESIDENCY.**—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)) is amended by adding at the end the following:

“(F) **PROOF OF RESIDENCY.**—An individual residing in a remote Indian or Native village or an individual served by an Indian tribal organization and residing on a reservation or pueblo may, under standards established by the Secretary, establish proof of residency under this section by providing to the State agency the mailing address of the individual and the name of the remote Indian or Native village.”.

(d) **ADJUSTMENT OF GRANT.**—Section 17(h)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(1)(B)) is amended—

(1) in clause (i), by striking “the fiscal year 1987” and inserting “the preceding fiscal year”; and

(2) in clause (ii)—

(A) by striking “the fiscal year 1987” and inserting “the preceding fiscal year”; and

(B) by striking subclause (I) and inserting the following:

“(I) the value of the index for State and local government purchases, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and”.

(e) **ALLOCATION OF FUNDS.**—Section 17(h)(5) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(5)) is amended by adding at the end the following:

“(D) **REMOTE INDIAN OR NATIVE VILLAGES.**—For non-contiguous States containing a significant number of remote Indian or Native villages, a State agency may convert amounts allocated for food benefits for a fiscal year to the costs of nutrition services and administration to

42 USC 1786
note.

the extent that the conversion is necessary to cover expenditures incurred in providing services (including the full cost of air transportation and other transportation) to remote Indian or Native villages and to provide breastfeeding support in remote Indian or Native villages.”.

(f) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section take effect on the date of the enactment of this Act.

(2) **ALLOCATION OF FUNDS.**—The amendments made by subsections (d) and (e) take effect on October 1, 2000.

Subtitle F—Other Programs

Texas.

SEC. 251. AUTHORITY TO PROVIDE LOAN IN CONNECTION WITH BOLL WEEVIL ERADICATION.

(a) **LOAN AUTHORITY.**—Notwithstanding any other provision of law, the Secretary, acting through the Farm Service Agency, shall use \$10,000,000 of funds of the Commodity Credit Corporation to make a loan to the Texas Boll Weevil Eradication Foundation, Inc., to enable the Foundation to retire certain debt associated with boll weevil eradication zones which have ended their participation, in whole or in part, in the federally funded boll weevil eradication program.

(b) **REPAYMENT TERMS AND CONDITIONS.**—The loan provided under subsection (a) shall be subject to the following terms and conditions:

(1) Repayment shall be scheduled to begin on January 1 of the year following the first year during which the boll weevil eradication zone, or any part thereof, responsible for the debt retired using the loan resumes participation in any federally funded boll weevil eradication program.

(2) No interest shall be charged.

(c) **LIMITATION.**—The cost of the loan made under this section shall not exceed the loan subsidy sufficient to make the loan.

SEC. 252. ANIMAL DISEASE CONTROL.

(a) **PSEUDORABIES.**—Of the amount made available under section 261(a)(2), the Secretary shall use \$7,000,000 to cover pseudorabies vaccination costs incurred by pork producers.

(b) **BOVINE TUBERCULOSIS.**—Of the amount made available under section 261(a)(2), the Secretary shall use \$6,000,000 to respond to bovine tuberculosis in the State of Michigan. The funds shall be available for the following purposes:

(1) The surveillance and testing of cattle and wildlife.

(2) Research regarding bovine tuberculosis, to be conducted by the Agricultural Research Service and Michigan State University.

(3) The provision of increased indemnity payments to encourage the depopulation of infected herds.

(4) The performance of diagnostic testing and treatment of humans affected by bovine tuberculosis.

(5) Slaughter surveillance.

(6) The control and prevention of the exposure of livestock to infected wildlife, including the installation of fencing to minimize contact between livestock and wildlife.

(7) The distribution of information regarding the risk and control of bovine tuberculosis, including technological improvements to enhance communication.

SEC. 253. EMERGENCY LOANS FOR SEED PRODUCERS.

(a) **IN GENERAL.**—Of the amount made available under section 261(a)(2), the Secretary shall use \$35,000,000, plus \$200,000 for payment of administrative costs, to make no-interest loans to producers of the 1999 crop of grass, forage, vegetable, and sorghum seed that have not received payments from AgriBiotech for the seed as a result of bankruptcy proceedings involving AgriBiotech (referred to in this section as the “bankruptcy proceedings”).

(b) LOANS.—

(1) **IN GENERAL.**—The amount of the loan made to a seed producer under this section shall be not more than 65 percent of the amount owed by AgriBiotech to the seed producer for the 1999 seed crop, as determined by the Secretary.

(2) **ELIGIBILITY.**—To be eligible for a loan under this section, the claim of a seed producer in the bankruptcy proceedings must have arisen from a contract to grow seeds in the United States.

(3) **CONTROL.**—In determining the amount owed by AgriBiotech to a seed producer under paragraph (1), the Secretary shall consider whether the seed producer has relinquished control of the seed to AgriBiotech or has the seed in inventory waiting to be sold.

(4) **SECURITY.**—A loan to a seed producer under this section shall be secured in part by the claim of the seed producer in the bankruptcy proceedings.

(5) **REPAYMENT.**—Each seed producer shall repay to the Secretary, for deposit in the Treasury, the amount of the loan made to the seed producer on the earlier of—

(A) the date of settlement of, completion of, or final distribution of assets in the bankruptcy proceedings involving AgriBiotech; or

(B) the date that is 18 months after the date on which the loan was made to the seed producer.

(c) ADDITIONAL TERMS.—

(1) **SHORTFALL IN AMOUNT RECEIVED FROM BANKRUPTCY PROCEEDINGS.**—If the amount that the seed producer receives as a result of the proceedings described in subsection (b)(5)(A) is less than the amount of the loan made to the seed producer under subsection (b)(1), the seed producer shall be eligible to have the balance of the loan converted, but not refinanced, to a loan that has the same terms and conditions as an operating loan under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.).

(2) **LENGTHY BANKRUPTCY PROCEEDINGS.**—If a seed producer is required to repay a loan under subsection (b)(5)(B), the seed producer shall be eligible to have the balance of the loan converted, but not refinanced, to a loan that has the same terms and conditions as an operating loan under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.).

(d) **LIMITATION.**—The cost of all loans made under this section shall not exceed \$15,000,000.

SEC. 254. TEMPORARY SUSPENSION OF AUTHORITY TO COMBINE CERTAIN OFFICES.

(a) **SUSPENSION.**—During the period beginning on the date of the enactment of this Act and ending on June 1, 2001, the Secretary may not combine or take any action to combine, at the State level, offices of the agencies specified in subsection (b) unless the offices are located in the same county as of the date of the enactment of this Act.

(b) **COVERED OFFICES.**—Subsection (a) applies to an office of any of the following agencies:

- (1) The Farm Service Agency.
- (2) The Natural Resources Conservation Service.
- (3) The Rural Utilities Service.
- (4) The Rural Housing Service.
- (5) The Rural Business-Cooperative Service.

(c) **REPORT.**—Not later than April 1, 2001, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing any proposed combination of offices specified in subsection (b) that includes a certification that the proposed combination would result in the lowest cost to the Federal Government over the long term.

SEC. 255. FARM OPERATING LOAN ELIGIBILITY.

During the period beginning on the date of the enactment of this Act and ending on December 31, 2002—

(1) sections 311(c) and 319 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(c), 1949) shall have no force or effect; and

(2) in making direct loans under subtitle B of that Act (7 U.S.C. 1941 et seq.), the Secretary shall give priority to a qualified beginning farmer or rancher who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years.

SEC. 256. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

Section 306D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d) is amended by striking subsection (d) and inserting the following:

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **IN GENERAL.**—There are authorized to be appropriated to carry out this section \$30,000,000 for each of fiscal years 2001 and 2002.

“(2) **TRAINING AND TECHNICAL ASSISTANCE.**—Not more than 2 percent of the amount made available under paragraph (1) for a fiscal year may be used by the State of Alaska for training and technical assistance programs relating to the operation and management of water and waste disposal services in rural and Native villages.

“(3) **AVAILABILITY.**—Funds appropriated pursuant to the authorization of appropriations in paragraph (1) shall be available until expended.”.

SEC. 257. CROP AND PASTURE FLOOD COMPENSATION PROGRAM.

(a) **DEFINITION OF COVERED LAND.**—In this section:

(1) **IN GENERAL.**—The term “covered land” means land that—

Deadline.
7 USC 1941 note.

Effective date.
Termination
date.

7 USC 1421 note.

(A) was unusable for agricultural production during the 2000 crop year as the result of flooding;

(B) was used for agricultural production during at least one of the 1992 through 1999 crop years;

(C) is a contiguous parcel of land of at least 1 acre; and

(D) is located in a county in which producers were eligible for assistance under the 1998 Flood Compensation Program established under part 1439 of title 7, Code of Federal Regulations.

(2) EXCLUSIONS.—The term “covered land” excludes any land for which a producer is insured, enrolled, or assisted during the 2000 crop year under—

(A) a policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(B) the noninsured crop assistance program operated under section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333);

(C) any crop disaster program established for the 2000 crop year;

(D) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

(E) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

(F) any emergency watershed protection program or Federal easement program that prohibits crop production or grazing; or

(G) any other Federal or State water storage program, as determined by the Secretary.

(b) COMPENSATION.—The Secretary shall use not more than \$24,000,000 of funds of the Commodity Credit Corporation to compensate producers with covered land described with respect to losses from long-term flooding. 7 USC 1421 note.

(c) PAYMENT RATE.—The payment rate for compensation provided to a producer under this section shall equal the average county cash rental rate per acre established by the National Agricultural Statistics Service for the 2000 crop year. 7 USC 1421 note.

(d) PAYMENT LIMITATION.—The total amount of payments made to a person (as defined in section 1001(5) of the Food Security Act (7 U.S.C. 1308(5))) under this section may not exceed \$40,000. 7 USC 1421 note.

(e) CONFORMING AMENDMENT.—H.R. 3425 of the 106th Congress (as enacted into law by section 1000(a)(5) of Public Law 106-113 (113 Stat. 1535) and included as Appendix E of that Public Law (113 Stat. 1501A-289)) is amended in section 207 (113 Stat. 1501A-294) by inserting “or Lake” after “Harney”.

SEC. 258. FLOOD MITIGATION NEAR PIERRE, SOUTH DAKOTA.

(a) REQUIREMENT.—Subject to subsection (b), as soon as practicable after the date of the enactment of this Act, with respect to land and property described in the Flood Mitigation Study and Project Implementation Plan for the Missouri River near Pierre, South Dakota, prepared by the Omaha District Corps of Engineers, dated August 12, 1999, the Secretary of the Army shall—

(1) acquire the land and property from willing sellers; and

- (2)(A) floodproof the land;
- (B) relocate individuals located on the land;
- (C) improve infrastructure on the land; or
- (D) take other measures determined by the Secretary.

(b) RELEASES.—

(1) IN GENERAL.—The Secretary shall not proceed with full wintertime Oahe Powerplant releases until the Secretary amends the economic analysis in effect on the date of the enactment of this Act to include an assumption that the Federal Government is responsible for mitigating any existing ground water flooding to the land and property described in subsection (a).

(2) REDUCTION.—To the extent the Secretary identifies benefits of mitigating any existing ground water flooding, full wintertime Oahe Powerplant releases shall be reduced consistent with the economic analysis described in paragraph (1).

(3) MINIMUM LEVEL.—This subsection shall not permit Oahe Powerplant releases to be reduced below existing operational levels.

7 USC 1421 note. **SEC. 259. RESTORATION OF ELIGIBILITY FOR CROP LOSS ASSISTANCE.**

(a) EFFECT OF CHANGE IN LEGAL STRUCTURE.—In the case of an individual or entity that was not eligible for a payment pursuant to subsection (c) of section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105-277; 7 U.S.C. 1421 note), solely because the individual or entity changed the legal structure of the individual's or entity's farming operation, the individual or entity shall be eligible for the payment the individual or entity would have received pursuant to that subsection had the individual or entity not changed the legal structure, less the amount of any payment received by the individual or entity pursuant to subsection (b) of that section.

(b) MULTIPLE FARMING OPERATIONS.—

(1) ELIGIBLE INDIVIDUALS.—In the case of an individual not described in subsection (a) that farmed acreage as a producer as a part of more than one farming operation, none of which received a payment pursuant to subsection (c) of section 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, the individual shall be eligible for a payment pursuant to that subsection for losses that the Secretary determines would have been eligible for compensation with respect to that acreage based on the individual's interest in the production from that acreage.

(2) REDUCTION.—A payment made pursuant to paragraph (1) to an individual shall be reduced by the amount of a payment made pursuant to subsection (b) of that section 1102 attributed directly or indirectly to the individual with respect to the acreage described in paragraph (1).

Subtitle G—Administration

SEC. 261. FUNDING.

(a) **PAYMENT.**—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary the following:

(1) \$34,000,000 for fiscal year 2000 to carry out section 241(a).

(2) \$465,500,000 for fiscal year 2001 to carry out the following:

(A) Section 203 (other than subsection (f)).

(B) Subtitle C.

(C) Section 231.

(D) Section 241 (other than subsection (a)).

(E) Sections 252 and 253.

(b) **ACCEPTANCE.**—The Secretary shall be entitled to receive the funds and shall accept the funds, without further appropriation.

SEC. 262. OBLIGATION PERIOD.

Except as otherwise provided in this title, the Secretary and the Commodity Credit Corporation shall obligate and expend—

(1) funds made available under section 261(a)(1) only during fiscal year 2000; and

(2) funds made available under section 261(a)(2), and funds of the Commodity Credit Corporation made available under this title, only during fiscal year 2001.

SEC. 263. REGULATIONS.

7 USC 1421 note.

(a) **PROMULGATION.**—As soon as practicable after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title and the amendments made by this title. The promulgation of the regulations and administration of this title shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(b) **CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.**—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 264. PAYGO ADJUSTMENT.

The Director of the Office of Management and Budget shall not make any estimates of changes in direct spending outlays and receipts under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)) resulting from enactment of this title.

SEC. 265. COMMODITY CREDIT CORPORATION REIMBURSEMENT.

Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall use such sums as may be necessary to reimburse the Commodity Credit Corporation for net

realized losses sustained, but not previously reimbursed, under this title.

Biomass
Research and
Development Act
of 2000.

TITLE III—BIOMASS RESEARCH AND DEVELOPMENT ACT OF 2000

7 USC 7624 note. **SEC. 301. SHORT TITLE.**

This title may be cited as the “Biomass Research and Development Act of 2000”.

7 USC 7624 note. **SEC. 302. FINDINGS.**

Congress finds that—

(1) conversion of biomass into biobased industrial products offers outstanding potential for benefit to the national interest through—

- (A) improved strategic security and balance of payments;
- (B) healthier rural economies;
- (C) improved environmental quality;
- (D) near-zero net greenhouse gas emissions;
- (E) technology export; and
- (F) sustainable resource supply;

(2) the key technical challenges to be overcome in order for biobased industrial products to be cost-competitive are finding new technology and reducing the cost of technology for converting biomass into desired biobased industrial products;

(3) biobased fuels, such as ethanol, have the clear potential to be sustainable, low cost, and high performance fuels that are compatible with both current and future transportation systems and provide near-zero net greenhouse gas emissions;

(4) biobased chemicals have the clear potential for environmentally benign product life cycles;

(5) biobased power can—

- (A) provide environmental benefits;
- (B) promote rural economic development; and
- (C) diversify energy resource options;

(6) many biomass feedstocks suitable for industrial processing show the clear potential for sustainable production, in some cases resulting in improved soil fertility and carbon sequestration;

(7)(A) grain processing mills are biorefineries that produce a diversity of useful food, chemical, feed, and fuel products; and

(B) technologies that result in further diversification of the range of value-added biobased industrial products can meet a key need for the grain processing industry;

(8)(A) cellulosic feedstocks are attractive because of their low cost and widespread availability; and

(B) research resulting in cost-effective technology to overcome the recalcitrance of cellulosic biomass would allow biorefineries to produce fuels and bulk chemicals on a very large scale, with a commensurately large realization of the benefit described in paragraph (1);

(9) research into the fundamentals to understand important mechanisms of biomass conversion can be expected to accelerate

the application and advancement of biomass processing technology by—

(A) increasing the confidence and speed with which new technologies can be scaled up; and

(B) giving rise to processing innovations based on new knowledge;

(10) the added utility of biobased industrial products developed through improvements in processing technology would encourage the design of feedstocks that would meet future needs more effectively;

(11) the creation of value-added biobased industrial products would create new jobs in construction, manufacturing, and distribution, as well as new higher-valued exports of products and technology;

(12)(A) because of the relatively short-term time horizon characteristic of private sector investments, and because many benefits of biomass processing are in the national interest, it is appropriate for the Federal Government to provide precommercial investment in fundamental research and research-driven innovation in the biomass processing area; and

(B) such an investment would provide a valuable complement to ongoing and past governmental support in the biomass processing area; and

(13) several prominent studies, including studies by the President's Committee of Advisors on Science and Technology and the National Research Council—

(A) support the potential for large research-driven advances in technologies for production of biobased industrial products as well as associated benefits; and

(B) document the need for a focused, integrated, and innovation-driven research effort to provide the appropriate progress in a timely manner.

SEC. 303. DEFINITIONS.

7 USC 7624 note.

In this title:

(1) **ADVISORY COMMITTEE.**—The term “Advisory Committee” means the Biomass Research and Development Technical Advisory Committee established by section 306.

(2) **BIOBASED INDUSTRIAL PRODUCT.**—The term “biobased industrial product” means fuels, chemicals, building materials, or electric power or heat produced from biomass.

(3) **BIOMASS.**—The term “biomass” means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.

(4) **BOARD.**—The term “Board” means the Biomass Research and Development Board established by section 305.

(5) **INITIATIVE.**—The term “Initiative” means the Biomass Research and Development Initiative established under section 307.

(6) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given the term in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)).

(7) NATIONAL LABORATORY.—The term “national laboratory” has the meaning given the term “laboratory” in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)).

(8) POINT OF CONTACT.—The term “point of contact” means a point of contact designated under section 304(d).

(9) PROCESSING.—The term “processing” means the derivation of biobased industrial products from biomass, including—

- (A) feedstock production;
- (B) harvest and handling;
- (C) pretreatment or thermochemical processing;
- (D) fermentation;
- (E) catalytic processing;
- (F) product recovery; and
- (G) coproduct production.

(10) RESEARCH AND DEVELOPMENT.—The term “research and development” means research, development, and demonstration.

7 USC 7624 note.

SEC. 304. COOPERATION AND COORDINATION IN BIOMASS RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy shall cooperate with respect to, and coordinate, policies and procedures that promote research and development leading to the production of biobased industrial products.

(b) PURPOSES.—The purposes of the cooperation and coordination shall be—

(1) to understand the key mechanisms underlying the recalcitrance of biomass for conversion into biobased industrial products;

(2) to develop new and cost-effective technologies that would result in large-scale commercial production of low cost and sustainable biobased industrial products;

(3) to ensure that biobased industrial products are developed in a manner that enhances their economic, energy security, and environmental benefits; and

(4) to promote the development and use of agricultural and energy crops for conversion into biobased industrial products.

(c) AREAS.—In carrying out this title, the Secretary of Agriculture and the Secretary of Energy, in consultation with heads of appropriate departments and agencies, shall promote research and development—

(1) to advance the availability and widespread use of energy efficient, economically competitive, and environmentally sound biobased industrial products in a manner that is consistent with the goals of the United States relating to sustainable and secure supplies of food, chemicals, and fuel;

(2) to ensure full consideration of Federal land and land management programs as potential feedstock resources for biobased industrial products; and

(3) to assess the environmental, economic, and social impact of production of biobased industrial products from biomass on a large scale.

(d) POINTS OF CONTACT.—

(1) IN GENERAL.—To coordinate research and development programs and activities relating to biobased industrial products that are carried out by their respective Departments—

Government
organization.
President.

(A) the Secretary of Agriculture shall designate, as the point of contact for the Department of Agriculture, an officer of the Department of Agriculture appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate; and

(B) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate.

(2) DUTIES.—The points of contact shall jointly—

(A) assist in arranging interlaboratory and site-specific supplemental agreements for research and development projects relating to biobased industrial products;

(B) serve as cochairpersons of the Board;

(C) administer the Initiative; and

(D) respond in writing to each recommendation of the Advisory Committee made under section 306(c).

SEC. 305. BIOMASS RESEARCH AND DEVELOPMENT BOARD.

7 USC 7624 note.

(a) ESTABLISHMENT.—There is established the Biomass Research and Development Board, which shall supersede the Interagency Council on Biobased Products and Bioenergy established by Executive Order No. 13134, to coordinate programs within and among departments and agencies of the Federal Government for the purpose of promoting the use of biobased industrial products by—

(1) maximizing the benefits deriving from Federal grants and assistance; and

(2) bringing coherence to Federal strategic planning.

(b) MEMBERSHIP.—The Board shall consist of—

(1) the point of contact of the Department of Energy designated under section 304(d)(1)(B), who shall serve as cochairperson of the Board;

(2) the point of contact of the Department of Agriculture designated under section 304(d)(1)(A), who shall serve as cochairperson of the Board;

(3) a senior officer of each of the Department of the Interior, the Environmental Protection Agency, the National Science Foundation, and the Office of Science and Technology Policy, each of whom shall—

(A) be appointed by the head of the respective agency; and

(B) have a rank that is equivalent to the rank of the points of contact; and

(4) at the option of the Secretary of Agriculture and the Secretary of Energy, other members appointed by the Secretaries (after consultation with the members described in paragraphs (1) through (3)).

(c) DUTIES.—The Board shall—

(1) coordinate research and development activities relating to biobased industrial products—

(A) between the Department of Agriculture and the Department of Energy; and

(B) with other departments and agencies of the Federal Government; and

(2) provide recommendations to the points of contact concerning administration of this title.

(d) FUNDING.—Each agency represented on the Board is encouraged to provide funds for any purpose under this title.

(e) MEETINGS.—The Board shall meet at least quarterly to enable the Board to carry out the duties of the Board under subsection (c).

7 USC 7624 note.

SEC. 306. BIOMASS RESEARCH AND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the Biomass Research and Development Technical Advisory Committee, which shall supersede the Advisory Committee on Biobased Products and Bioenergy established by Executive Order No. 13134—

(1) to advise the Secretary of Energy, the Secretary of Agriculture, and the points of contact concerning—

(A) the technical focus and direction of requests for proposals issued under the Initiative; and

(B) procedures for reviewing and evaluating the proposals;

(2) to facilitate consultations and partnerships among Federal and State agencies, agricultural producers, industry, consumers, the research community, and other interested groups to carry out program activities relating to the Initiative; and

(3) to evaluate and perform strategic planning on program activities relating to the Initiative.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Advisory Committee shall consist of—

(A) an individual affiliated with the biobased industrial products industry;

(B) an individual affiliated with an institution of higher education who has expertise in biobased industrial products;

(C) two prominent engineers or scientists from government or academia who have expertise in biobased industrial products;

(D) an individual affiliated with a commodity trade association;

(E) an individual affiliated with an environmental or conservation organization;

(F) an individual associated with State government who has expertise in biobased industrial products;

(G) an individual with expertise in energy analysis;

(H) an individual with expertise in the economics of biobased industrial products;

(I) an individual with expertise in agricultural economics; and

(J) at the option of the points of contact, other members.

(2) APPOINTMENT.—The members of the Advisory Committee shall be appointed by the points of contact.

(c) DUTIES.—The Advisory Committee shall—

(1) advise the points of contact with respect to the Initiative; and

(2) evaluate whether, and make recommendations in writing to the Board to ensure that—

(A) funds authorized for the Initiative are distributed and used in a manner that is consistent with the goals of the Initiative;

(B) the points of contact are funding proposals under this title that are selected on the basis of merit, as determined by an independent panel of scientific and technical peers; and

(C) activities under this title are carried out in accordance with this title.

(d) COORDINATION.—To avoid duplication of effort, the Advisory Committee shall coordinate its activities with those of other Federal advisory committees working in related areas.

(e) MEETINGS.—The Advisory Committee shall meet at least quarterly to enable the Advisory Committee to carry out the duties of the Advisory Committee under subsection (c).

(f) TERMS.—Members of the Advisory Committee shall be appointed for a term of 3 years, except that—

(1) one-third of the members initially appointed shall be appointed for a term of 1 year; and

(2) one-third of the members initially appointed shall be appointed for a term of 2 years.

SEC. 307. BIOMASS RESEARCH AND DEVELOPMENT INITIATIVE.

(a) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy, acting through their respective points of contact and in consultation with the Board, shall establish and carry out a Biomass Research and Development Initiative under which competitively awarded grants, contracts, and financial assistance are provided to, or entered into with, eligible entities to carry out research on biobased industrial products.

(b) PURPOSES.—The purposes of grants, contracts, and assistance under this section shall be—

(1) to stimulate collaborative activities by a diverse range of experts in all aspects of biomass processing for the purpose of conducting fundamental and innovation-targeted research and technology development;

(2) to enhance creative and imaginative approaches toward biomass processing that will serve to develop the next generation of advanced technologies making possible low cost and sustainable biobased industrial products;

(3) to strengthen the intellectual resources of the United States through the training and education of future scientists, engineers, managers, and business leaders in the field of biomass processing; and

(4) to promote integrated research partnerships among colleges, universities, national laboratories, Federal and State research agencies, and the private sector as the best means of overcoming technical challenges that span multiple research and engineering disciplines and of gaining better leverage from limited Federal research funds.

(c) ELIGIBLE ENTITIES.—

Grants.
Contracts.
7 USC 7624 note.

(1) IN GENERAL.—To be eligible for a grant, contract, or assistance under this section, an applicant shall be—

- (A) an institution of higher education;
- (B) a national laboratory;
- (C) a Federal research agency;
- (D) a State research agency;
- (E) a private sector entity;
- (F) a nonprofit organization; or
- (G) a consortium of two or more entities described in subparagraphs (A) through (F).

(2) ADMINISTRATION.—After consultation with the Board, the points of contact shall—

Publication.

(A) publish annually one or more joint requests for proposals for grants, contracts, and assistance under this section;

(B) establish a priority in grants, contracts, and assistance under this section for research that—

(i) demonstrates potential for significant advances in biomass processing;

(ii) demonstrates potential to substantially further scale-sensitive national objectives such as—

- (I) sustainable resource supply;
- (II) reduced greenhouse gas emissions;
- (III) healthier rural economies; and
- (IV) improved strategic security and trade balances; and

(iii) would improve knowledge of important biomass processing systems that demonstrate potential for commercial applications;

(C) require that grants, contracts, and assistance under this section be awarded competitively, on the basis of merit, after the establishment of procedures that provide for scientific peer review by an independent panel of scientific and technical peers; and

(D) give preference to applications that—

(i) involve a consortia of experts from multiple institutions; and

(ii) encourage the integration of disciplines and application of the best technical resources.

(d) USES OF GRANTS, CONTRACTS, AND ASSISTANCE.—A grant, contract, or assistance under this section may be used to conduct—

(1) research on process technology for overcoming the recalcitrance of biomass, including research on key mechanisms, advanced technologies, and demonstration test beds for—

(A) feedstock pretreatment and hydrolysis of cellulose and hemicellulose, including new technologies for—

- (i) enhanced sugar yields;
- (ii) lower overall chemical use;
- (iii) less costly materials; and
- (iv) cost reduction;

(B) development of novel organisms and other approaches to substantially lower the cost of cellulase enzymes and enzymatic hydrolysis, including dedicated cellulase production and consolidated bioprocessing strategies; and

(C) approaches other than enzymatic hydrolysis for overcoming the recalcitrance of cellulosic biomass;

(2) research on technologies for diversifying the range of products that can be efficiently and cost-competitively produced from biomass, including research on—

(A) metabolic engineering of biological systems (including the safe use of genetically modified crops) to produce novel products, especially commodity products, or to increase product selectivity and tolerance, with a research priority for the development of biobased industrial products that can compete in performance and cost with fossil-based products;

(B) catalytic processing to convert intermediates of biomass processing into products of interest;

(C) separation technologies for cost-effective product recovery and purification;

(D) approaches other than metabolic engineering and catalytic conversion of intermediates of biomass processing;

(E) advanced biomass gasification technologies, including coproduction of power and heat as an integrated component of biomass processing, with the possibility of generating excess electricity for sale; and

(F) related research in advanced turbine and stationary fuel cell technology for production of electricity from biomass; and

(3) research aimed at ensuring the environmental performance and economic viability of biobased industrial products and their raw material input of biomass when considered as an integrated system, including research on—

(A) the analysis of, and strategies to enhance, the environmental performance and sustainability of biobased industrial products, including research on—

(i) accurate measurement and analysis of greenhouse gas emissions, carbon sequestration, and carbon cycling in relation to the life cycle of biobased industrial products and feedstocks with respect to other alternatives;

(ii) evaluation of current and future biomass resource availability;

(iii) development and analysis of land management practices and alternative biomass cropping systems that ensure the environmental performance and sustainability of biomass production and harvesting;

(iv) the land, air, water, and biodiversity impacts of large-scale biomass production, processing, and use of biobased industrial products relative to other alternatives; and

(v) biomass gasification and combustion to produce electricity;

(B) the analysis of, and strategies to enhance, the economic viability of biobased industrial products, including research on—

(i) the cost of the required process technology;

(ii) the impact of coproducts, including food, animal feed, and fiber, on biobased industrial product price and large-scale economic viability; and

(iii) interactions between an emergent biomass refining industry and the petrochemical refining infrastructure; and

(C) the field and laboratory research related to feedstock production with the interrelated goals of enhancing the sustainability, increasing productivity, and decreasing the cost of biomass processing, including research on—

(i) altering biomass to make biomass easier and less expensive to process;

(ii) existing and new agricultural and energy crops that provide a sustainable resource for conversion to biobased industrial products while simultaneously serving as a source for coproducts such as food, animal feed, and fiber;

(iii) improved technologies for harvest, collection, transport, storage, and handling of crop and residue feedstocks; and

(iv) development of economically viable cropping systems that improve the conservation and restoration of marginal land; or

(4) any research and development in technologies or processes determined by the Secretary of Agriculture and the Secretary of Energy, acting through their respective points of contact and in consultation with the Board, to be consistent with the purposes described in subsection (b) and the priority described in subsection (c)(2)(B).

(e) TECHNOLOGY AND INFORMATION TRANSFER TO AGRICULTURAL

USERS.—

(1) IN GENERAL.—The Administrator of the Cooperative State Research, Education, and Extension Service and the Chief of the Natural Resources Conservation Service shall ensure that applicable research results and technologies from the Initiative are adapted, made available, and disseminated through their respective services, as appropriate.

Deadline.

(2) REPORT.—Not later than 5 years after the date of the enactment of this Act, the Administrator of the Cooperative State Research, Education, and Extension Service and the Chief of the Natural Resources Conservation Service shall submit to the committees of Congress with jurisdiction over the Initiative a report on the activities conducted by the services under this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds appropriated for biomass research and development under the general authority of the Secretary of Energy to conduct research and development programs (which may also be used to carry out this title), there are authorized to be appropriated to the Department of Agriculture to carry out this title \$49,000,000 for each of fiscal years 2000 through 2005.

7 USC 7624 note.

SEC. 308. ADMINISTRATIVE SUPPORT AND FUNDS.

(a) IN GENERAL.—To the extent administrative support and funds are not provided by other agencies under subsection (b), the Secretary of Energy and the Secretary of Agriculture may provide such administrative support and funds of the Department of Energy and the Department of Agriculture to the Board and the Advisory Committee as are necessary to enable the Board and the Advisory Committee to carry out their duties under this title.

(b) OTHER AGENCIES.—The heads of the agencies referred to in section 305(b)(3), and the other members appointed under section

305(b)(4), may, and are encouraged to, provide administrative support and funds of their respective agencies to the Board and the Advisory Committee.

(c) **LIMITATION.**—Not more than 4 percent of the amount appropriated for each fiscal year under section 307(f) may be used to pay the administrative costs of carrying out this title.

SEC. 309. REPORTS.

7 USC 7624 note.

(a) **INITIAL REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy and the Secretary of Agriculture shall jointly submit to Congress a report that—

Deadline.

(1) identifies the points of contact, the members of the Board, and the members of the Advisory Committee;

(2) describes the status of current biobased industrial product research and development efforts in both the Federal Government and private sector;

(3) includes a section prepared by the Board that establishes a set of criteria to assess the potential of biobased industrial products, which shall include for both biomass production and transformation into biobased industrial products—

(A) an energy accounting;

(B) an environmental impact assessment; and

(C) an economic assessment; and

(4) describes the research and development goals of the Initiative, including how funds will be allocated in order to accomplish those goals.

(b) **ANNUAL REPORTS.**—For each fiscal year for which funds are made available to carry out this title, the Secretary of Energy and the Secretary of Agriculture shall jointly submit to Congress a detailed report on—

(1) the status and progress of the Initiative, including a report from the Advisory Committee on whether funds appropriated for the Initiative have been distributed and used in a manner that—

(A) is consistent with the purposes described in section 307(b);

(B) uses the set of criteria established under subsection (a)(3); and

(C) takes into account any recommendations that have been made by the Advisory Committee;

(2) the general status of cooperation and research and development efforts carried out at each agency with respect to biobased industrial products, including a report from the Advisory Committee on whether the points of contact are funding proposals that are selected under section 307(c)(2)(C); and

(3) the plans of the Secretary of Energy and the Secretary of Agriculture for addressing concerns raised in the report, including concerns raised by the Advisory Committee.

SEC. 310. TERMINATION OF AUTHORITY.

7 USC 7624 note.

The authority provided under this title shall terminate on December 31, 2005.

Plant Protection
Act.
Commerce and
trade.
Exports and
imports.
7 USC 7701 note.
7 USC 7701.

TITLE IV—PLANT PROTECTION ACT

SEC. 401. SHORT TITLE.

This title may be cited as the “Plant Protection Act”.

SEC. 402. FINDINGS.

Congress finds that—

(1) the detection, control, eradication, suppression, prevention, or retardation of the spread of plant pests or noxious weeds is necessary for the protection of the agriculture, environment, and economy of the United States;

(2) biological control is often a desirable, low-risk means of ridding crops and other plants of plant pests and noxious weeds, and its use should be facilitated by the Department of Agriculture, other Federal agencies, and States whenever feasible;

(3) it is the responsibility of the Secretary to facilitate exports, imports, and interstate commerce in agricultural products and other commodities that pose a risk of harboring plant pests or noxious weeds in ways that will reduce, to the extent practicable, as determined by the Secretary, the risk of dissemination of plant pests or noxious weeds;

(4) decisions affecting imports, exports, and interstate movement of products regulated under this title shall be based on sound science;

(5) the smooth movement of enterable plants, plant products, biological control organisms, or other articles into, out of, or within the United States is vital to the United State's economy and should be facilitated to the extent possible;

(6) export markets could be severely impacted by the introduction or spread of plant pests or noxious weeds into or within the United States;

(7) the unregulated movement of plant pests, noxious weeds, plants, certain biological control organisms, plant products, and articles capable of harboring plant pests or noxious weeds could present an unacceptable risk of introducing or spreading plant pests or noxious weeds;

(8) the existence on any premises in the United States of a plant pest or noxious weed new to or not known to be widely prevalent in or distributed within and throughout the United States could constitute a threat to crops and other plants or plant products of the United States and burden interstate commerce or foreign commerce; and

(9) all plant pests, noxious weeds, plants, plant products, articles capable of harboring plant pests or noxious weeds regulated under this title are in or affect interstate commerce or foreign commerce.

7 USC 7702.

SEC. 403. DEFINITIONS.

In this title:

(1) **ARTICLE.**—The term “article” means any material or tangible object that could harbor plant pests or noxious weeds.

(2) **BIOLOGICAL CONTROL ORGANISM.**—The term “biological control organism” means any enemy, antagonist, or competitor used to control a plant pest or noxious weed.

(3) **ENTER AND ENTRY.**—The terms “enter” and “entry” mean to move into, or the act of movement into, the commerce of the United States.

(4) **EXPORT AND EXPORTATION.**—The terms “export” and “exportation” mean to move from, or the act of movement from, the United States to any place outside the United States.

(5) **IMPORT AND IMPORTATION.**—The terms “import” and “importation” mean to move into, or the act of movement into, the territorial limits of the United States.

(6) **INTERSTATE.**—The term “interstate” means—

(A) from one State into or through any other State;
or

(B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(7) **INTERSTATE COMMERCE.**—The term “interstate commerce” means trade, traffic, or other commerce—

(A) between a place in a State and a point in another State, or between points within the same State but through any place outside that State; or

(B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(8) **MEANS OF CONVEYANCE.**—The term “means of conveyance” means any personal property used for or intended for use for the movement of any other personal property.

(9) **MOVE AND RELATED TERMS.**—The terms “move”, “moving”, and “movement” mean—

(A) to carry, enter, import, mail, ship, or transport;

(B) to aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting;

(C) to offer to carry, enter, import, mail, ship, or transport;

(D) to receive to carry, enter, import, mail, ship, or transport;

(E) to release into the environment; or

(F) to allow any of the activities described in a preceding subparagraph.

(10) **NOXIOUS WEED.**—The term “noxious weed” means any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

(11) **PERMIT.**—The term “permit” means a written or oral authorization, including by electronic methods, by the Secretary to move plants, plant products, biological control organisms, plant pests, noxious weeds, or articles under conditions prescribed by the Secretary.

(12) **PERSON.**—The term “person” means any individual, partnership, corporation, association, joint venture, or other legal entity.

(13) **PLANT.**—The term “plant” means any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

(14) **PLANT PEST.**—The term “plant pest” means any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product:

(A) A protozoan.

(B) A nonhuman animal.

(C) A parasitic plant.

(D) A bacterium.

(E) A fungus.

(F) A virus or viroid.

(G) An infectious agent or other pathogen.

(H) Any article similar to or allied with any of the articles specified in the preceding subparagraphs.

(15) **PLANT PRODUCT.**—The term “plant product” means—

(A) any flower, fruit, vegetable, root, bulb, seed, or other plant part that is not included in the definition of plant; or

(B) any manufactured or processed plant or plant part.

(16) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(17) **STATE.**—The term “State” means any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(18) **SYSTEMS APPROACH.**—For the purposes of section 412(e), the term “systems approach” means a defined set of phytosanitary procedures, at least two of which have an independent effect in mitigating pest risk associated with the movement of commodities.

(19) **THIS TITLE.**—Except when used in this section, the term “this title” includes any regulation or order issued by the Secretary under the authority of this title.

(20) **UNITED STATES.**—The term “United States” means all of the States.

Subtitle A—Plant Protection

7 USC 7711.

SEC. 411. REGULATION OF MOVEMENT OF PLANT PESTS.

(a) **PROHIBITION OF UNAUTHORIZED MOVEMENT OF PLANT PESTS.**—Except as provided in subsection (c), no person shall import, enter, export, or move in interstate commerce any plant pest, unless the importation, entry, exportation, or movement is authorized under general or specific permit and is in accordance with such regulations as the Secretary may issue to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

(b) **REQUIREMENTS FOR PROCESSES.**—The Secretary shall ensure that the processes used in developing regulations under subsection (a) governing consideration of import requests are based on sound science and are transparent and accessible.

(c) **AUTHORIZATION OF MOVEMENT OF PLANT PESTS BY REGULATION.**—

(1) **EXCEPTION TO PERMIT REQUIREMENT.**—The Secretary may issue regulations to allow the importation, entry, exportation, or movement in interstate commerce of specified plant

pests without further restriction if the Secretary finds that a permit under subsection (a) is not necessary.

(2) PETITION TO ADD OR REMOVE PLANT PESTS FROM REGULATION.—Any person may petition the Secretary to add a plant pest to, or remove a plant pest from, the regulations issued by the Secretary under paragraph (1).

(3) RESPONSE TO PETITION BY THE SECRETARY.—In the case of a petition submitted under paragraph (2), the Secretary shall act on the petition within a reasonable time and notify the petitioner of the final action the Secretary takes on the petition. The Secretary's determination on the petition shall be based on sound science.

(d) PROHIBITION OF UNAUTHORIZED MAILING OF PLANT PESTS.—

(1) IN GENERAL.—Any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is nonmailable and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, unless the letter, parcel, box, or other package is mailed in compliance with such regulations as the Secretary may issue to prevent the dissemination of plant pests into the United States or interstate.

(2) APPLICATION OF POSTAL LAWS AND REGULATIONS.—Nothing in this subsection authorizes any person to open any mailed letter or other mailed sealed matter except in accordance with the postal laws and regulations.

(e) REGULATIONS.—Regulations issued by the Secretary to implement subsections (a), (c), and (d) may include provisions requiring that any plant pest imported, entered, to be exported, moved in interstate commerce, mailed, or delivered from any post office—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, movement in interstate commerce, mailing, or delivery of the plant pest;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant pest is to be moved;

(3) be raised under post-entry quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the plant pest—

(A) may be infested with other plant pests;

(B) may pose a significant risk of causing injury to, damage to, or disease in any plant or plant product; or

(C) may be a noxious weed; and

(4) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests.

SEC. 412. REGULATION OF MOVEMENT OF PLANTS, PLANT PRODUCTS, BIOLOGICAL CONTROL ORGANISMS, NOXIOUS WEEDS, ARTICLES, AND MEANS OF CONVEYANCE. 7 USC 7712.

(a) IN GENERAL.—The Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination of a plant pest or noxious weed within the United States.

(b) **POLICY.**—The Secretary shall ensure that processes used in developing regulations under this section governing consideration of import requests are based on sound science and are transparent and accessible.

(c) **REGULATIONS.**—The Secretary may issue regulations to implement subsection (a), including regulations requiring that any plant, plant product, biological control organism, noxious weed, article, or means of conveyance imported, entered, to be exported, or moved in interstate commerce—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, or movement in interstate commerce;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant, plant product, biological control organism, noxious weed, article, or means of conveyance is to be moved;

(3) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests or noxious weeds; and

(4) with respect to plants or biological control organisms, be grown or handled under post-entry quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the plant or biological control organism may be infested with plant pests or may be a plant pest or noxious weed.

(d) **NOTICE.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall publish for public comment a notice describing the procedures and standards that govern the consideration of import requests. The notice shall—

(1) specify how public input will be sought in advance of and during the process of promulgating regulations necessitating a risk assessment in order to ensure a fully transparent and publicly accessible process; and

(2) include consideration of the following:

(A) Public announcement of import requests that will necessitate a risk assessment.

(B) A process for assigning major/nonroutine or minor/routine status to such requests based on current state of supporting scientific information.

(C) A process for assigning priority to requests.

(D) Guidelines for seeking relevant scientific and economic information in advance of initiating informal rule-making.

(E) Guidelines for ensuring availability and transparency of assumptions and uncertainties in the risk assessment process including applicable risk mitigation measures relied upon individually or as components of a system of mitigative measures proposed consistent with the purposes of this title.

(e) **STUDY AND REPORT ON SYSTEMS APPROACH.**—

(1) **STUDY.**—The Secretary shall conduct a study of the role for and application of systems approaches designed to guard against the introduction of plant pathogens into the United States associated with proposals to import plants or plant products into the United States.

Deadline.
Publication.
Public
information.

(2) **PARTICIPATION BY SCIENTISTS.**—In conducting the study the Secretary shall ensure participation by scientists from State departments of agriculture, colleges and universities, the private sector, and the Agricultural Research Service.

(3) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study conducted under this section to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

Deadline.

(f) **NOXIOUS WEEDS.**—

(1) **REGULATIONS.**—In the case of noxious weeds, the Secretary may publish, by regulation, a list of noxious weeds that are prohibited or restricted from entering the United States or that are subject to restrictions on interstate movement within the United States.

(2) **PETITION TO ADD OR REMOVE PLANTS FROM REGULATION.**—Any person may petition the Secretary to add a plant species to, or remove a plant species from, the regulations issued by the Secretary under this subsection.

(3) **DUTIES OF THE SECRETARY.**—In the case of a petition submitted under paragraph (2), the Secretary shall act on the petition within a reasonable time and notify the petitioner of the final action the Secretary takes on the petition. The Secretary's determination on the petition shall be based on sound science.

(g) **BIOLOGICAL CONTROL ORGANISMS.**—

(1) **REGULATIONS.**—In the case of biological control organisms, the Secretary may publish, by regulation, a list of organisms whose movement in interstate commerce is not prohibited or restricted. Any listing may take into account distinctions between organisms such as indigenous, nonindigenous, newly introduced, or commercially raised.

(2) **PETITION TO ADD OR REMOVE BIOLOGICAL CONTROL ORGANISMS FROM THE REGULATIONS.**—Any person may petition the Secretary to add a biological control organism to, or remove a biological control organism from, the regulations issued by the Secretary under this subsection.

(3) **DUTIES OF THE SECRETARY.**—In the case of a petition submitted under paragraph (2), the Secretary shall act on the petition within a reasonable time and notify the petitioner of the final action the Secretary takes on the petition. The Secretary's determination on the petition shall be based on sound science.

SEC. 413. NOTIFICATION AND HOLDING REQUIREMENTS UPON ARRIVAL. 7 USC 7713.

(a) **DUTY OF SECRETARY OF THE TREASURY.**—

(1) **NOTIFICATION.**—The Secretary of the Treasury shall promptly notify the Secretary of Agriculture of the arrival of any plant, plant product, biological control organism, plant pest, or noxious weed at a port of entry.

(2) **HOLDING.**—The Secretary of the Treasury shall hold a plant, plant product, biological control organism, plant pest, or noxious weed for which notification is made under paragraph (1) at the port of entry until the plant, plant product, biological control organism, plant pest, or noxious weed—

(A) is inspected and authorized for entry into or transit movement through the United States; or

(B) is otherwise released by the Secretary of Agriculture.

(3) EXCEPTIONS.—Paragraphs (1) and (2) shall not apply to any plant, plant product, biological control organism, plant pest, or noxious weed that is imported from a country or region of a country designated by the Secretary of Agriculture, pursuant to regulations, as exempt from the requirements of such paragraphs.

(b) DUTY OF RESPONSIBLE PARTIES.—

(1) NOTIFICATION.—The person responsible for any plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance required to have a permit under section 411 or 412 shall provide the notification described in paragraph (3) as soon as possible after the arrival of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance at a port of entry and before the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is moved from the port of entry.

(2) SUBMISSION.—The notification shall be provided to the Secretary, or, at the Secretary's direction, to the proper official of the State to which the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is destined, or both, as the Secretary may prescribe.

(3) ELEMENTS OF NOTIFICATION.—The notification shall consist of the following:

(A) The name and address of the consignee.

(B) The nature and quantity of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance proposed to be moved.

(C) The country and locality where the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance was grown, produced, or located.

(c) PROHIBITION ON MOVEMENT OF ITEMS WITHOUT AUTHORIZATION.—No person shall move from a port of entry or interstate any imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance unless the imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance—

(1) is inspected and authorized for entry into or transit movement through the United States; or

(2) is otherwise released by the Secretary.

7 USC 7714.

SEC. 414. GENERAL REMEDIAL MEASURES FOR NEW PLANT PESTS AND NOXIOUS WEEDS.

(a) AUTHORITY TO HOLD, TREAT, OR DESTROY ITEMS.—If the Secretary considers it necessary in order to prevent the dissemination of a plant pest or noxious weed that is new to or not known to be widely prevalent or distributed within and throughout the United States, the Secretary may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of any plant, plant pest, noxious weed, biological control organism, plant product, article, or means of conveyance that—

(1) is moving into or through the United States or interstate, or has moved into or through the United States or interstate, and—

(A) the Secretary has reason to believe is a plant pest or noxious weed or is infested with a plant pest or noxious weed at the time of the movement; or

(B) is or has been otherwise in violation of this title;

(2) has not been maintained in compliance with a post-entry quarantine requirement; or

(3) is the progeny of any plant, biological control organism, plant product, plant pest, or noxious weed that is moving into or through the United States or interstate, or has moved into the United States or interstate, in violation of this title.

(b) **AUTHORITY TO ORDER AN OWNER TO TREAT OR DESTROY.**—

(1) **IN GENERAL.**—The Secretary may order the owner of any plant, biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance subject to action under subsection (a), or the owner's agent, to treat, apply other remedial measures to, destroy, or otherwise dispose of the plant, biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance, without cost to the Federal Government and in the manner the Secretary considers appropriate.

(2) **FAILURE TO COMPLY.**—If the owner or agent of the owner fails to comply with the Secretary's order under this subsection, the Secretary may take an action authorized by subsection (a) and recover from the owner or agent of the owner the costs of any care, handling, application of remedial measures, or disposal incurred by the Secretary in connection with actions taken under subsection (a).

(c) **CLASSIFICATION SYSTEM.**—

(1) **DEVELOPMENT REQUIRED.**—To facilitate control of noxious weeds, the Secretary may develop a classification system to describe the status and action levels for noxious weeds. The classification system may include the current geographic distribution, relative threat, and actions initiated to prevent introduction or distribution.

(2) **MANAGEMENT PLANS.**—In conjunction with the classification system, the Secretary may develop integrated management plans for noxious weeds for the geographic region or ecological range where the noxious weed is found in the United States.

(d) **APPLICATION OF LEAST DRASTIC ACTION.**—No plant, biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible and that would be adequate to prevent the dissemination of any plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

SEC. 415. DECLARATION OF EXTRAORDINARY EMERGENCY AND RESULTING AUTHORITIES. 7 USC 7715.

(a) **AUTHORITY TO DECLARE.**—If the Secretary determines that an extraordinary emergency exists because of the presence of a

plant pest or noxious weed that is new to or not known to be widely prevalent in or distributed within and throughout the United States and that the presence of the plant pest or noxious weed threatens plants or plant products of the United States, the Secretary may—

(1) hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, any plant, biological control organism, plant product, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(2) quarantine, treat, or apply other remedial measures to any premises, including any plants, biological control organisms, plant products, articles, or means of conveyance on the premises, that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(3) quarantine any State or portion of a State in which the Secretary finds the plant pest or noxious weed or any plant, biological control organism, plant product, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed; and

(4) prohibit or restrict the movement within a State of any plant, biological control organism, plant product, article, or means of conveyance when the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the plant pest or noxious weed or to eradicate the plant pest or noxious weed.

(b) REQUIRED FINDING OF EMERGENCY.—The Secretary may take action under this section only upon finding, after review and consultation with the Governor or other appropriate official of the State affected, that the measures being taken by the State are inadequate to eradicate the plant pest or noxious weed.

(c) NOTIFICATION PROCEDURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), before any action is taken in any State under this section, the Secretary shall notify the Governor or other appropriate official of the State affected, issue a public announcement, and file for publication in the Federal Register a statement of—

(A) the Secretary's findings;

(B) the action the Secretary intends to take;

(C) the reasons for the intended action; and

(D) where practicable, an estimate of the anticipated duration of the extraordinary emergency.

(2) TIME SENSITIVE ACTIONS.—If it is not possible to file for publication in the Federal Register prior to taking action, the filing shall be made within a reasonable time, not to exceed 10 business days, after commencement of the action.

(d) APPLICATION OF LEAST DRASTIC ACTION.—No plant, biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible and that would be adequate to prevent the dissemination of any plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

Federal Register,
publication.

(e) **PAYMENT OF COMPENSATION.**—The Secretary may pay compensation to any person for economic losses incurred by the person as a result of action taken by the Secretary under this section. The determination by the Secretary of the amount of any compensation to be paid under this subsection shall be final and shall not be subject to judicial review.

SEC. 416. RECOVERY OF COMPENSATION FOR UNAUTHORIZED ACTIVITIES. 7 USC 7716.

(a) **RECOVERY ACTION.**—The owner of any plant, plant biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance destroyed or otherwise disposed of by the Secretary under section 414 or 415 may bring an action against the United States to recover just compensation for the destruction or disposal of the plant, plant biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance (not including compensation for loss due to delays incident to determining eligibility for importation, entry, exportation, movement in interstate commerce, or release into the environment), but only if the owner establishes that the destruction or disposal was not authorized under this title.

(b) **TIME FOR ACTION; LOCATION.**—An action under this section shall be brought not later than 1 year after the destruction or disposal of the plant, plant biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance involved. The action may be brought in any United States district court where the owner is found, resides, transacts business, is licensed to do business, or is incorporated.

SEC. 417. CONTROL OF GRASSHOPPERS AND MORMON CRICKETS. 7 USC 7717.

(a) **IN GENERAL.**—Subject to the availability of funds pursuant to this section, the Secretary shall carry out a program to control grasshoppers and Mormon crickets on all Federal lands to protect rangeland.

(b) **TRANSFER AUTHORITY.**—

(1) **IN GENERAL.**—Subject to paragraph (3), upon the request of the Secretary of Agriculture, the Secretary of the Interior shall transfer to the Secretary of Agriculture, from any no-year appropriations, funds for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on Federal lands under the jurisdiction of the Secretary of the Interior. The transferred funds shall be available only for the payment of obligations incurred on such Federal lands.

(2) **TRANSFER REQUESTS.**—Requests for the transfer of funds pursuant to this subsection shall be made as promptly as possible by the Secretary.

(3) **LIMITATION.**—Funds transferred pursuant to this subsection may not be used by the Secretary until funds specifically appropriated to the Secretary for grasshopper control have been exhausted.

(4) **REPLENISHMENT OF TRANSFERRED FUNDS.**—Funds transferred pursuant to this subsection shall be replenished by supplemental or regular appropriations, which shall be requested as promptly as possible.

(c) **TREATMENT FOR GRASSHOPPERS AND MORMON CRICKETS.**—

(1) **IN GENERAL.**—Subject to the availability of funds pursuant to this section, on request of the administering agency

or the agriculture department of an affected State, the Secretary, to protect rangeland, shall immediately treat Federal, State, or private lands that are infested with grasshoppers or Mormon crickets at levels of economic infestation, unless the Secretary determines that delaying treatment will not cause greater economic damage to adjacent owners of rangeland.

(2) **OTHER PROGRAMS.**—In carrying out this section, the Secretary shall work in conjunction with other Federal, State, and private prevention, control, or suppression efforts to protect rangeland.

(d) **FEDERAL COST SHARE OF TREATMENT.**—

(1) **CONTROL ON FEDERAL LANDS.**—Out of funds made available or transferred under this section, the Secretary shall pay 100 percent of the cost of grasshopper or Mormon cricket control on Federal lands to protect rangeland.

(2) **CONTROL ON STATE LANDS.**—Out of funds made available under this section, the Secretary shall pay 50 percent of the cost of grasshopper or Mormon cricket control on State lands.

(3) **CONTROL ON PRIVATE LANDS.**—Out of funds made available under this section, the Secretary shall pay 33.3 percent of the cost of grasshopper or Mormon cricket control on private lands.

(e) **TRAINING.**—From appropriated funds made available or transferred by the Secretary of the Interior to the Secretary of Agriculture for such purposes, the Secretary of Agriculture shall provide adequate funding for a program to train personnel to accomplish effectively the objective of this section.

7 USC 7718.

SEC. 418. CERTIFICATION FOR EXPORTS.

The Secretary may certify as to the freedom of plants, plant products, or biological control organisms from plant pests or noxious weeds, or the exposure of plants, plant products, or biological control organisms to plant pests or noxious weeds, according to the phytosanitary or other requirements of the countries to which the plants, plant products, or biological control organisms may be exported.

Subtitle B—Inspection and Enforcement

7 USC 7731.

SEC. 421. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) **ROLE OF ATTORNEY GENERAL.**—The activities authorized by this section shall be carried out consistent with guidelines approved by the Attorney General.

(b) **WARRANTLESS INSPECTIONS.**—The Secretary may stop and inspect, without a warrant, any person or means of conveyance moving—

(1) into the United States to determine whether the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article subject to this title;

(2) in interstate commerce, upon probable cause to believe that the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article subject to this title; and

(3) in intrastate commerce from or within any State, portion of a State, or premises quarantined as part of an extraordinary

emergency declared under section 415 upon probable cause to believe that the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article regulated under that section or is moving subject to that section.

(c) **INSPECTIONS WITH A WARRANT.**—

(1) **GENERAL AUTHORITY.**—The Secretary may enter, with a warrant, any premises in the United States for the purpose of conducting investigations or making inspections and seizures under this title.

(2) **APPLICATION AND ISSUANCE OF A WARRANT.**—Upon proper oath or affirmation showing probable cause to believe that there is on certain premises any plant, plant product, biological control organism, plant pest, noxious weed, article, facility, or means of conveyance regulated under this title, a United States judge, a judge of a court of record in the United States, or a United States magistrate judge may, within the judge's or magistrate's jurisdiction, issue a warrant for the entry upon the premises to conduct any investigation or make any inspection or seizure under this title. The warrant may be applied for and executed by the Secretary or any United States Marshal.

SEC. 422. COLLECTION OF INFORMATION.

7 USC 7732.

The Secretary may gather and compile information and conduct any investigations the Secretary considers necessary for the administration and enforcement of this title.

SEC. 423. SUBPOENA AUTHORITY.

7 USC 7733.

(a) **AUTHORITY TO ISSUE.**—The Secretary shall have power to subpoena the attendance and testimony of any witness, and the production of all documentary evidence relating to the administration or enforcement of this title or any matter under investigation in connection with this title.

(b) **LOCATION OF PRODUCTION.**—The attendance of any witness and production of documentary evidence may be required from any place in the United States at any designated place of hearing.

(c) **ENFORCEMENT OF SUBPOENA.**—In the case of disobedience to a subpoena by any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, in requiring the attendance and testimony of any witness and the production of documentary evidence. In case of a refusal to obey a subpoena issued to any person, a court may order the person to appear before the Secretary and give evidence concerning the matter in question or to produce documentary evidence. Any failure to obey the court's order may be punished by the court as a contempt of the court.

(d) **COMPENSATION.**—Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid to witnesses in courts of the United States, and witnesses whose depositions are taken and the persons taking the depositions shall be entitled to the same fees that are paid for similar services in the courts of the United States.

(e) **PROCEDURES.**—The Secretary shall publish procedures for the issuance of subpoenas under this section. Such procedures shall

Publication.

include a requirement that subpoenas be reviewed for legal sufficiency and signed by the Secretary. If the authority to sign a subpoena is delegated, the agency receiving the delegation shall seek review for legal sufficiency outside that agency.

(f) SCOPE OF SUBPOENA.—Subpoenas for witnesses to attend court in any judicial district or to testify or produce evidence at an administrative hearing in any judicial district in any action or proceeding arising under this title may run to any other judicial district.

7 USC 7734.

SEC. 424. PENALTIES FOR VIOLATION.

(a) CRIMINAL PENALTIES.—Any person that knowingly violates this title, or that knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this title shall be guilty of a misdemeanor, and, upon conviction, shall be fined in accordance with title 18, United States Code, imprisoned for a period not exceeding 1 year, or both.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person that violates this title, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this title may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—

(A) \$50,000 in the case of any individual (except that the civil penalty may not exceed \$1,000 in the case of an initial violation of this title by an individual moving regulated articles not for monetary gain), \$250,000 in the case of any other person for each violation, and \$500,000 for all violations adjudicated in a single proceeding; or

(B) twice the gross gain or gross loss for any violation, forgery, counterfeiting, unauthorized use, defacing, or destruction of a certificate, permit, or other document provided for in this title that results in the person deriving pecuniary gain or causing pecuniary loss to another.

(2) FACTORS IN DETERMINING CIVIL PENALTY.—In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstance, extent, and gravity of the violation or violations and the Secretary may consider, with respect to the violator—

(A) ability to pay;

(B) effect on ability to continue to do business;

(C) any history of prior violations;

(D) the degree of culpability; and

(E) any other factors the Secretary considers appropriate.

(3) SETTLEMENT OF CIVIL PENALTIES.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that may be assessed under this subsection.

(4) FINALITY OF ORDERS.—The order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of the Secretary's order may not be reviewed in an action to collect the civil penalty. Any civil penalty not paid in full when due under an order assessing the civil penalty

shall thereafter accrue interest until paid at the rate of interest applicable to civil judgments of the courts of the United States.

(c) **LIABILITY FOR ACTS OF AN AGENT.**—When construing and enforcing this title, the act, omission, or failure of any officer, agent, or person acting for or employed by any other person within the scope of his or her employment or office, shall be deemed also to be the act, omission, or failure of the other person.

(d) **GUIDELINES FOR CIVIL PENALTIES.**—The Secretary shall coordinate with the Attorney General to establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this title.

SEC. 425. ENFORCEMENT ACTIONS OF ATTORNEY GENERAL.

7 USC 7735.

The Attorney General may—

(1) prosecute, in the name of the United States, all criminal violations of this title that are referred to the Attorney General by the Secretary or are brought to the notice of the Attorney General by any person;

(2) bring an action to enjoin the violation of or to compel compliance with this title, or to enjoin any interference by any person with the Secretary in carrying out this title, whenever the Secretary has reason to believe that the person has violated, or is about to violate this title, or has interfered, or is about to interfere, with the Secretary; and

(3) bring an action for the recovery of any unpaid civil penalty, funds under reimbursable agreements, late payment penalty, or interest assessed under this title.

SEC. 426. COURT JURISDICTION.

7 USC 7736.

(a) **IN GENERAL.**—The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of other territories and possessions are vested with jurisdiction in all cases arising under this title. Any action arising under this title may be brought, and process may be served, in the judicial district where a violation or interference occurred or is about to occur, or where the person charged with the violation, interference, impending violation, impending interference, or failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated.

(b) **EXCEPTION.**—This section does not apply to the imposition of civil penalties under section 424(b).

Subtitle C—Miscellaneous Provisions

SEC. 431. COOPERATION.

7 USC 7751.

(a) **IN GENERAL.**—The Secretary may cooperate with other Federal agencies or entities, States or political subdivisions of States, national governments, local governments of other nations, domestic or international organizations, domestic or international associations, and other persons to carry out this title.

(b) **RESPONSIBILITY.**—The individual or entity cooperating with the Secretary under subsection (a) shall be responsible for—

(1) the authority necessary to conduct the operations or take measures on all land and properties within the foreign

country or State, other than those owned or controlled by the United States; and

(2) other facilities and means as the Secretary determines necessary.

(c) **TRANSFER OF BIOLOGICAL CONTROL METHODS.**—The Secretary may transfer to a State, Federal agency, or other person biological control methods using biological control organisms against plant pests or noxious weeds.

(d) **COOPERATION IN PROGRAM ADMINISTRATION.**—The Secretary may cooperate with State authorities or other persons in the administration of programs for the improvement of plants, plant products, and biological control organisms.

(e) **PHYTOSANITARY ISSUES.**—The Secretary shall ensure that phytosanitary issues involving imports and exports are addressed based on sound science and consistent with applicable international agreements. To accomplish these goals, the Secretary may—

(1) conduct direct negotiations with plant health officials or other appropriate officials of other countries;

(2) provide technical assistance, training, and guidance to any country requesting such assistance in the development of agricultural health protection systems and import/export systems; and

(3) maintain plant health and quarantine expertise in other countries—

(A) to facilitate the establishment of phytosanitary systems and the resolution of phytosanitary issues;

(B) to assist those countries with agricultural health protection activities; and

(C) to provide general liaison on agricultural health issues with the plant health or other appropriate officials of the country.

7 USC 7752.

SEC. 432. BUILDINGS, LAND, PEOPLE, CLAIMS, AND AGREEMENTS.

(a) **IN GENERAL.**—To the extent necessary to carry out this title, the Secretary may acquire and maintain all real or personal property for special purposes and employ any persons, make grants, and enter into any contracts, cooperative agreements, memoranda of understanding, or other agreements.

(b) **TORT CLAIMS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the Secretary may pay tort claims in the manner authorized in the first paragraph of section 2672 of title 28, United States Code, when the claims arise outside the United States in connection with activities that are authorized under this title.

(2) **REQUIREMENTS OF CLAIM.**—A claim may not be allowed under this subsection unless the claim is presented in writing to the Secretary within 2 years after the date on which the claim accrues.

7 USC 7753.

SEC. 433. REIMBURSABLE AGREEMENTS.

(a) **AUTHORITY TO ENTER INTO AGREEMENTS.**—The Secretary may enter into reimbursable fee agreements with persons for preclearance of plants, plant products, biological control organisms, and articles at locations outside the United States for movement into the United States.

(b) **FUNDS COLLECTED FOR PRECLEARANCE.**—Funds collected for preclearance shall be credited to accounts which may be established by the Secretary for this purpose and shall remain available

until expended for the preclearance activities without fiscal year limitation.

(c) **PAYMENT OF EMPLOYEES.**—

(1) **IN GENERAL.**—Notwithstanding any other law, the Secretary may pay employees of the Department of Agriculture performing services relating to imports into and exports from the United States, for all overtime, night, or holiday work performed by them, at rates of pay established by the Secretary.

(2) **REIMBURSEMENT OF THE SECRETARY.**—

(A) **IN GENERAL.**—The Secretary may require persons for whom the services are performed to reimburse the Secretary for any sums of money paid by the Secretary for the services.

(B) **USE OF FUNDS.**—All funds collected under this paragraph shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

(d) **LATE PAYMENT PENALTIES.**—

(1) **COLLECTION.**—Upon failure to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty, and the overdue funds shall accrue interest, as required by section 3717 of title 31, United States Code.

(2) **USE OF FUNDS.**—Any late payment penalty and any accrued interest shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

SEC. 434. REGULATIONS AND ORDERS.

7 USC 7754.

The Secretary may issue such regulations and orders as the Secretary considers necessary to carry out this title.

SEC. 435. PROTECTION FOR MAIL HANDLERS.

7 USC 7755.

This title shall not apply to any employee of the United States in the performance of the duties of the employee in handling the mail.

SEC. 436. PREEMPTION.

7 USC 7756.

(a) **REGULATION OF FOREIGN COMMERCE.**—No State or political subdivision of a State may regulate in foreign commerce any article, means of conveyance, plant, biological control organism, plant pest, noxious weed, or plant product in order—

(1) to control a plant pest or noxious weed;

(2) to eradicate a plant pest or noxious weed; or

(3) prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed.

(b) **REGULATION OF INTERSTATE COMMERCE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), no State or political subdivision of a State may regulate the movement in interstate commerce of any article, means of conveyance, plant, biological control organism, plant pest, noxious weed, or plant product in order to control a plant pest or noxious weed, eradicate a plant pest or noxious weed, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed, if the Secretary has issued a regulation or order to prevent the dissemination of the biological control organism, plant pest, or noxious weed within the United States.

(2) EXCEPTIONS.—

(A) **REGULATIONS CONSISTENT WITH FEDERAL REGULATIONS.**—A State or a political subdivision of a State may impose prohibitions or restrictions upon the movement in interstate commerce of articles, means of conveyance, plants, biological control organisms, plant pests, noxious weeds, or plant products that are consistent with and do not exceed the regulations or orders issued by the Secretary.

(B) **SPECIAL NEED.**—A State or political subdivision of a State may impose prohibitions or restrictions upon the movement in interstate commerce of articles, means of conveyance, plants, plant products, biological control organisms, plant pests, or noxious weeds that are in addition to the prohibitions or restrictions imposed by the Secretary, if the State or political subdivision of a State demonstrates to the Secretary and the Secretary finds that there is a special need for additional prohibitions or restrictions based on sound scientific data or a thorough risk assessment.

7 USC 7757.

SEC. 437. SEVERABILITY.

If any provision of this title or application of any provision of this title to any person or circumstances is held invalid, the remainder of this title and the application of the provision to other persons and circumstances shall not be affected by the invalidity.

7 USC 7758.

SEC. 438. REPEAL OF SUPERSEDED LAWS.

(a) **REPEAL.**—The following provisions of law are repealed:

(1) The Act of August 20, 1912 (commonly known as the “Plant Quarantine Act”) (7 U.S.C. 151–164a, 167).

(2) The Federal Plant Pest Act (7 U.S.C. 150aa et seq. and 7 U.S.C. 147a note).

(3) Subsections (a) through (e) of section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a).

(4) The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.), except the first section and section 15 of that Act (7 U.S.C. 2801 note and 7 U.S.C. 2814).

(5) The Act of January 31, 1942 (commonly known as the “Mexican Border Act”) (7 U.S.C. 149).

(6) The Joint Resolution of April 6, 1937 (commonly known as the “Insect Control Act”) (7 U.S.C. 148 et seq.).

(7) The Halogeton Glomeratus Act (7 U.S.C. 1651 et seq.).

(8) The Golden Nematode Act (7 U.S.C. 150 et seq.).

(9) Section 1773 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 148f).

(b) **EMERGENCY TRANSFER AUTHORITY REGARDING PLANT PESTS.**—The first section of Public Law 97–46 (7 U.S.C. 147b) is amended—

(1) by striking “plant pests or”; and

(2) by striking “section 102 of the Act of September 21, 1944, as amended (7 U.S.C. 147a), and”.

(c) **EFFECT ON REGULATIONS.**—Regulations issued under the authority of a provision of law repealed by subsection (a) shall remain in effect until such time as the Secretary issues a regulation under section 434 that supersedes the earlier regulation.

Subtitle D—Authorization of Appropriations

SEC. 441. AUTHORIZATION OF APPROPRIATIONS.

7 USC 7771.

There are authorized to be appropriated such amounts as may be necessary to carry out this title. Except as specifically authorized by law, no part of the money appropriated under this section shall be used to pay indemnities for property injured or destroyed by or at the direction of the Secretary.

SEC. 442. TRANSFER AUTHORITY.

7 USC 7772.

(a) **AUTHORITY TO TRANSFER CERTAIN FUNDS.**—In connection with an emergency in which a plant pest or noxious weed threatens any segment of the agricultural production of the United States, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such amounts as the Secretary considers necessary to be available in the emergency for the arrest, control, eradication, and prevention of the spread of the plant pest or noxious weed and for related expenses.

(b) **AVAILABILITY.**—Any funds transferred under this section shall remain available for such purposes without fiscal year limitation.

TITLE V—INSPECTION ANIMALS

SEC. 501. CIVIL PENALTY.

7 USC 2279e.

(a) **IN GENERAL.**—Any person that causes harm to, or interferes with, an animal used for the purposes of official inspections by the Department of Agriculture, may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary of Agriculture not to exceed \$10,000.

(b) **FACTORS IN DETERMINING CIVIL PENALTY.**—In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstance, extent, and gravity of the offense.

(c) **SETTLEMENT OF CIVIL PENALTIES.**—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that may be assessed under this section.

(d) **FINALITY OF ORDERS.**—

(1) **IN GENERAL.**—The order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of the order of the Secretary may not be reviewed in an action to collect the civil penalty.

(2) **INTEREST.**—Any civil penalty not paid in full when due under an order assessing the civil penalty shall thereafter accrue interest until paid at the rate of interest applicable to civil judgments of the courts of the United States.

SEC. 502. SUBPOENA AUTHORITY.

7 USC 2279f.

(a) **IN GENERAL.**—The Secretary shall have power to subpoena the attendance and testimony of any witness, and the production of all documentary evidence relating to the enforcement of section 501 or any matter under investigation in connection with this title.

(b) LOCATION OF PRODUCTION.—The attendance of any witness and the production of documentary evidence may be required from any place in the United States at any designated place of hearing.

(c) ENFORCEMENT OF SUBPOENA.—In the case of disobedience to a subpoena by any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, in requiring the attendance and testimony of any witness and the production of documentary evidence. In case of a refusal to obey a subpoena issued to any person, a court may order the person to appear before the Secretary and give evidence concerning the matter in question or to produce documentary evidence. Any failure to obey the court's order may be punished by the court as a contempt of the court.

(d) COMPENSATION.—Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid to witnesses in courts of the United States, and witnesses whose depositions are taken, and the persons taking the depositions shall be entitled to the same fees that are paid for similar services in the courts of the United States.

Publication.

(e) PROCEDURES.—The Secretary shall publish procedures for the issuance of subpoenas under this section. Such procedures shall include a requirement that subpoenas be reviewed for legal sufficiency and signed by the Secretary. If the authority to sign a subpoena is delegated, the agency receiving the delegation shall seek review for legal sufficiency outside that agency.

(f) SCOPE OF SUBPOENA.—Subpoenas for witnesses to attend court in any judicial district or testify or produce evidence at an administrative hearing in any judicial district in any action or proceeding arising under section 501 may run to any other judicial district.

Approved June 20, 2000.

LEGISLATIVE HISTORY—H.R. 2559 (S. 2251):

HOUSE REPORTS: Nos. 106-300 and Pt. 2 (Comm. on Agriculture).

SENATE REPORTS: No. 106-247 accompanying S. 2251 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD:

Vol. 145 (1999): Sept. 29, considered and passed House.

Vol. 146 (2000): Mar. 22, 23, considered and passed Senate, amended, in lieu of S. 2251.

May 25, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):
June 20, Presidential statement.