

**“SEC. 106. IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.**Evaluation.  
7 USC 5606.

“Not later than September 30 of each year, the Secretary shall evaluate whether the obligations undertaken by foreign countries under the Uruguay Round Agreement on Agriculture are being fully implemented. If the Secretary has reason to believe (based on the evaluation) that any foreign country, by not implementing the obligations of the country, may be significantly constraining an opportunity for United States agricultural exports, the Secretary shall—

“(1) submit the evaluation to the United States Trade Representative; and

“(2) transmit a copy of the evaluation to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate.”

(b) **MONITORING COMPLIANCE WITH SANITARY AND PHYTOSANITARY MEASURES.**—Section 414 of the Agricultural Trade Act of 1978 (7 U.S.C. 5674) is amended by adding at the end the following:

“(c) **MONITORING COMPLIANCE WITH SANITARY AND PHYTOSANITARY MEASURES.**—The Secretary shall monitor the compliance of World Trade Organization member countries with the sanitary and phytosanitary measures of the Agreement on Agriculture of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade. If the Secretary has reason to believe that any country may have failed to meet the commitment on sanitary and phytosanitary measures under the Agreement in a manner that adversely impacts the exports of a United States agricultural commodity, the Secretary shall—

“(1) provide such information to the United States Trade Representative of the circumstances surrounding the matter arising under this subsection; and

“(2) with respect to any such circumstances that the Secretary considers to have a continuing adverse effect on United States agricultural exports, report to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate—

Reports.

“(A) that a country may have failed to meet the sanitary and phytosanitary commitments; and

“(B) any notice given by the Secretary to the United States Trade Representative.”

**SEC. 243. EXPORT CREDITS.**

(a) **EXPORT CREDIT GUARANTEE PROGRAM.**—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—

(1) in subsection (a)—

(A) by striking “GUARANTEES.—The” and inserting the following: “GUARANTEES.—

“(1) IN GENERAL.—The”; and

(B) by adding at the end the following:

“(2) **SUPPLIER CREDITS.**—In carrying out this section, the Commodity Credit Corporation may issue guarantees for the

repayment of credit made available for a period of not more than 180 days by a United States exporter to a buyer in a foreign country.”;

(2) in subsection (f)—

(A) by striking “(f) RESTRICTIONS.—The” and inserting the following:

“(f) RESTRICTIONS.—

“(1) IN GENERAL.—The”; and

(B) by adding at the end the following:

“(2) CRITERIA FOR DETERMINATION.—In making the determination required under paragraph (1) with respect to credit guarantees under subsection (b) for a country, the Secretary may consider, in addition to financial, macroeconomic, and monetary indicators—

“(A) whether an International Monetary Fund standby agreement, Paris Club rescheduling plan, or other economic restructuring plan is in place with respect to the country;

“(B) whether the country is addressing issues such as—

“(i) the convertibility of the currency of the country;

“(ii) adequate legal protection for foreign investments;

“(iii) the viability of the financial markets of the country; and

“(iv) adequate legal protection for the private property rights of citizens of the country; or

“(C) any other factors that are relevant to the ability of the country to service the debt of the country.”;

(3) by striking subsection (h) and inserting the following:

“(h) UNITED STATES AGRICULTURAL COMMODITIES.—The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities.”;

(4) in subsection (i)—

(A) by striking paragraph (1);

(B) by striking “INSTITUTIONS.—A financial” and inserting the following: “INSTITUTIONS.—

“(1) IN GENERAL.—A financial”;

(C) by striking “(2) is” and inserting the following:

“(A) is”;

(D) by striking “(3) is” and inserting the following:

“(B) is”; and

(E) by adding at the end the following:

“(2) THIRD COUNTRY BANKS.—The Commodity Credit Corporation may guarantee under subsections (a) and (b) the repayment of credit made available to finance an export sale irrespective of whether the obligor is located in the country to which the export sale is destined.”; and

(5) by striking subsection (k) and inserting the following:

“(k) PROCESSED AND HIGH-VALUE PRODUCTS.—

“(1) IN GENERAL.—In issuing export credit guarantees under this section, the Commodity Credit Corporation shall, subject to paragraph (2), ensure that not less than 25 percent for each of fiscal years 1996 and 1997, 30 percent for each of fiscal years 1998 and 1999, and 35 percent for each of fiscal years 2000, 2001, and 2002, of the total amount of credit guarantees issued for a fiscal year is issued to promote the export of processed or high-value agricultural products and

that the balance is issued to promote the export of bulk or raw agricultural commodities.

“(2) LIMITATION.—The percentage requirement of paragraph (1) shall apply for a fiscal year to the extent that a reduction in the total amount of credit guarantees issued for the fiscal year is not required to meet the percentage requirement.”

(b) FUNDING LEVELS.—Section 211 of the Agricultural Trade Act of 1978 (7 U.S.C. 5641) is amended by striking subsection (b) and inserting the following:

“(b) EXPORT CREDIT GUARANTEE PROGRAMS.—

“(1) EXPORT CREDIT GUARANTEES.—The Commodity Credit Corporation shall make available for each of fiscal years 1996 through 2002 not less than \$5,500,000,000 in credit guarantees under subsections (a) and (b) of section 202.

“(2) LIMITATION ON ORIGINATION FEE.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to 1 percent of the amount of credit to be guaranteed under the transaction, except with respect to an export credit guarantee transaction pursuant to section 1542(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 7 U.S.C. 5622 note).”

(c) DEFINITION OF UNITED STATES AGRICULTURAL COMMODITY.—Section 102(7) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(7)) is amended by striking subparagraphs (A) and (B) and inserting the following:

“(A) an agricultural commodity or product entirely produced in the United States; or

“(B) a product of an agricultural commodity—

“(i) 90 percent or more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

“(ii) that the Secretary determines to be a high value agricultural product.”

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out the amendments made by this section. 7 USC 5622 note.

#### SEC. 244. MARKET ACCESS PROGRAM.

(a) CHANGE OF NAME.—

(1) IN GENERAL.—Section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) is amended—

(A) in the section heading, by striking “MARKET PROMOTION PROGRAM” and inserting “MARKET ACCESS PROGRAM”; and

(B) by striking “marketing promotion program” each place it appears and inserting “market access program”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1302 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 7 U.S.C. 5623) is amended—

(i) in the section heading, by striking “MARKET PROMOTION PROGRAM” and inserting “MARKET ACCESS PROGRAM”; and

7 USC 5623 note.

(ii) in subsection (b), by striking “market promotion program” each place it appears and inserting “market access program”.

(B) Section 211(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended—

(i) in the subsection heading, by striking “MARKETING PROMOTION PROGRAMS” and inserting “MARKET ACCESS PROGRAMS”;

(ii) by striking “market promotion activities” and inserting “market access activities”;

(iii) in paragraph (1), by striking “market development program” and inserting “market access program”; and

(iv) in paragraph (2), by striking “marketing promotion program” and inserting “market access program”.

(b) USE OF FUNDS.—Section 203(f) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(f)) is amended by adding at the end the following:

“(4) USE OF FUNDS.—Funds made available to carry out this section—

“(A) shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation’s use in promoting foreign-produced products;

“(B) shall not be used to provide direct assistance to any for-profit corporation that is not recognized as a small-business concern described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)), excluding—

“(i) a cooperative;

“(ii) an association described in the first section of the Act entitled ‘An Act To authorize association of producers of agricultural products’, approved February 18, 1922 (7 U.S.C. 291); and

“(iii) a nonprofit trade association; and

“(C) may be used by a United States trade association, cooperative, or small business for individual branded promotional activity related to a United States branded product, if the beneficiaries of the activity have provided funds for the activity in an amount that is at least equivalent to the amount of assistance provided under this section.”.

Effective date.

(c) FUNDING.—Effective October 1, 1995, section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended—

(1) by striking “and” after “1991 through 1993,”; and

(2) by striking “through 1997,” and inserting “through 1995, and not more than \$90,000,000 for each of fiscal years 1996 through 2002,”.

#### SEC. 245. EXPORT ENHANCEMENT PROGRAM.

Effective date.

(a) IN GENERAL.—Effective October 1, 1995, section 301(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)) is amended by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

“(A) \$350,000,000 for fiscal year 1996;

“(B) \$250,000,000 for fiscal year 1997;

- “(C) \$500,000,000 for fiscal year 1998;
- “(D) \$550,000,000 for fiscal year 1999;
- “(E) \$579,000,000 for fiscal year 2000;
- “(F) \$478,000,000 for fiscal year 2001; and
- “(G) \$478,000,000 for fiscal year 2002.”

(b) **PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.**—Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by adding at the end the following:

“(h) **PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.**—

“(1) **IN GENERAL.**—Effective beginning in fiscal year 1996, and consistent, as determined by the Secretary, with the obligations and reduction commitments undertaken by the United States under the Uruguay Round Agreements, the Secretary may make available not more than \$100,000,000 for each fiscal year under this section for the sale of intermediate agricultural products in sufficient quantities to attain the volume of export sales consistent with the volume of intermediate agricultural products exported by the United States during the Uruguay Round base period years of 1986 through 1990.

Effective date.

“(2) **ADDITIONAL ASSISTANCE.**—Notwithstanding paragraph (1), if the export sale of any intermediate agricultural product attains the volume of export sales consistent with the volume of the intermediate agricultural product exported by the United States during the Uruguay Round base period years of 1986 through 1990, the Secretary may make available additional amounts under this section for the encouragement of export sales of the intermediate agricultural product.”

**SEC. 246. ARRIVAL CERTIFICATION.**

Section 401 of the Agricultural Trade Act of 1978 (7 U.S.C. 5661) is amended by striking subsection (a) and inserting the following:

“(a) **ARRIVAL CERTIFICATION.**—With respect to a commodity provided, or for which financing or a credit guarantee or other assistance is made available, under a program authorized in section 201, 202, or 301, the Commodity Credit Corporation shall require the exporter of the commodity to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and shall allow representatives of the Commodity Credit Corporation access to the records or documents as needed, to verify the arrival of the commodity in the country that is the intended destination of the commodity.”

Records.

**SEC. 247. COMPLIANCE.**

Section 402(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5662(a)) is amended—

- (1) by striking paragraph (2); and
- (2) by redesignating paragraph (3) as paragraph (2).

**SEC. 248. REGULATIONS.**

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is repealed.

**SEC. 249. TRADE COMPENSATION AND ASSISTANCE PROGRAMS.**

Subtitle B of title IV of the Agricultural Trade Act of 1978 (7 U.S.C. 5671 et seq.) is amended by adding at the end the following:

7 USC 5677.

**“SEC. 417. TRADE COMPENSATION AND ASSISTANCE PROGRAMS.**

“(a) **IN GENERAL.**—Except as provided in subsection (f), notwithstanding any other provision of law, if, after the date of enactment of this section, the President or any other member of the executive branch causes exports from the United States to any country to be unilaterally suspended for reasons of national security or foreign policy, and if within 90 days after the date on which the suspension is imposed on United States exports no other country with an agricultural economic interest agrees to participate in the suspension, the Secretary shall carry out a trade compensation assistance program in accordance with this section (referred to in this section as a ‘program’).

“(b) **COMPENSATION OR PROVISION OF FUNDS.**—Under a program, the Secretary shall, based on an evaluation by the Secretary of the method most likely to produce the greatest compensatory benefit for producers of the commodity involved in the suspension—

“(1) compensate producers of the commodity by making payments available to producers, as provided by subsection (c)(1); or

“(2) make available an amount of funds calculated under subsection (c)(2), to promote agricultural exports or provide agricultural commodities to developing countries under any authorities available to the Secretary.

“(c) **DETERMINATION OF AMOUNT OF COMPENSATION OR FUNDS.**—

“(1) **COMPENSATION.**—If the Secretary makes payments available to producers under subsection (b)(1), the amount of the payment shall be determined by the Secretary based on the Secretary’s estimate of the loss suffered by producers of the commodity involved due to any decrease in the price of the commodity as a result of the suspension.

“(2) **DETERMINATION OF AMOUNT OF FUNDS.**—For each fiscal year of a program, the amount of funds made available under subsection (b)(2) shall be equal to 90 percent of the average annual value of United States agricultural exports to the country with respect to which exports are suspended during the most recent 3 years prior to the suspension for which data are available.

“(d) **DURATION OF PROGRAM.**—For each suspension of exports for which a program is implemented under this section, funds shall be made available under subsection (b) for each fiscal year or part of a fiscal year for which the suspension is in effect, but not to exceed 3 fiscal years.

“(e) **COMMODITY CREDIT CORPORATION.**—The Secretary shall use funds of the Commodity Credit Corporation to carry out this section.

“(f) **EXCEPTION TO CARRYING OUT A PROGRAM.**—This section shall not apply to any suspension of trade due to a war or armed hostility.

“(g) **PARTIAL YEAR EMBARGOES.**—If the Secretary makes funds available under subsection (b)(2), regardless of whether an embargo is in effect for only part of a fiscal year, the full amount of funds as calculated under subsection (c)(2) shall be made available under a program for the fiscal year. If the Secretary determines that making the required amount of funds available in a partial fiscal year is impracticable, the Secretary may make all or part of the funds required to be made available in the following fiscal year

(in addition to any funds otherwise required under a program to be made available in the following fiscal year).

“(h) **SHORT SUPPLY EMBARGOES.**—If the President or any other member of the executive branch causes exports to be suspended based on a determination of short supply, the Secretary shall carry out section 1002 of the Food and Agriculture Act of 1977 (7 U.S.C. 1310).”

**SEC. 250. FOREIGN AGRICULTURAL SERVICE.**

Section 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5693) is amended to read as follows:

**“SEC. 503. DUTIES OF FOREIGN AGRICULTURAL SERVICE.**

“The Service shall assist the Secretary in carrying out the agricultural trade policy and international cooperation policy of the United States by—

- “(1) acquiring information pertaining to agricultural trade;
- “(2) carrying out market promotion and development activities;
- “(3) providing agricultural technical assistance and training; and
- “(4) carrying out the programs authorized under this Act, the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), and other Acts.”

**SEC. 251. REPORTS.**

The first sentence of section 603 of the Agricultural Trade Act of 1978 (7 U.S.C. 5713) is amended by striking “The” and inserting “Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), the”.

**SEC. 252. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.**

The Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

**“TITLE VII—FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM**

**“SEC. 701. DEFINITION OF ELIGIBLE TRADE ORGANIZATION.**

7 USC 5721.

“In this title, the term ‘eligible trade organization’ means a United States trade organization that—

- “(1) promotes the export of 1 or more United States agricultural commodities or products; and
- “(2) does not have a business interest in or receive remuneration from specific sales of agricultural commodities or products.

**“SEC. 702. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.**

Establishment.  
7 USC 5722.

“(a) **IN GENERAL.**—The Secretary shall establish and, in cooperation with eligible trade organizations, carry out a foreign market development cooperator program to maintain and develop foreign markets for United States agricultural commodities and products.

“(b) **ADMINISTRATION.**—Funds made available to carry out this title shall be used only to provide—

- “(1) cost-share assistance to an eligible trade organization under a contract or agreement with the organization; and

“(2) assistance for other costs that are necessary or appropriate to carry out the foreign market development cooperator program, including contingent liabilities that are not otherwise funded.

7 USC 5723.

**“SEC. 703. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 1996 through 2002.”

### **Subtitle C—Miscellaneous Agricultural Trade Provisions**

7 USC 5678.

**SEC. 261. EDWARD R. MADIGAN UNITED STATES AGRICULTURAL EXPORT EXCELLENCE AWARD.**

(a) **FINDINGS.**—Congress finds that—

(1) United States producers of agricultural products are some of the most productive and efficient producers of agricultural products in the world;

(2) continued growth and expansion of markets for United States agricultural exports is crucial to the continued development and economic well-being of rural areas of the United States and the agricultural sector of the United States economy;

(3) in recent years, United States agricultural exports have steadily increased, surpassing \$54,000,000,000 in value in 1995;

(4) as United States agricultural producers move toward a market-oriented system in which planting and other decisions by producers are driven by national and international market signals, developing new and expanding agricultural export markets is vital to maintaining a vibrant and healthy agricultural sector and rural economy; and

(5) a United States agricultural export excellence award will increase United States agricultural exports by—

(A) identifying efforts of United States entities to develop and expand markets for United States agricultural exports through the development of new products and services and through the use of innovative marketing techniques;

(B) recognizing achievements of those who have exhibited or supported entrepreneurial efforts to expand and create new markets for United States agricultural exports or increase the volume or value of United States agricultural exports; and

(C) disseminating information on successful methods used to develop and expand markets for United States agricultural exports.

(b) **ESTABLISHMENT.**—There is established the Edward R. Madigan United States Agricultural Export Excellence Award, which shall be evidenced by a medal bearing the inscription “Edward R. Madigan United States Agricultural Export Excellence Award”. The medal shall be of such design and materials and bear such additional inscriptions as the Secretary of Agriculture (referred to in this section as the “Secretary”) may prescribe.

President.

(c) **SELECTION OF RECIPIENT.**—The President or the Secretary (on the basis of recommendations received from the board established under subsection (h)) shall periodically provide the award

to companies and other entities that in the judgment of the President or the Secretary substantially encourage entrepreneurial efforts in the food and agriculture sector for advancing United States agricultural exports.

(d) **PRESENTATION OF AWARD.**—The presentation of the award shall be made by the President or the Secretary with such ceremonies as the President or the Secretary considers proper. President.

(e) **PUBLICATION OF AWARD.**—An entity to which an award is made under this section may publicize the receipt of the award by the entity and use the award in advertising of the entity.

(f) **CATEGORIES FOR WHICH AWARD MAY BE GIVEN.**—Separate awards shall be made to qualifying entities in each of the following categories:

(1) Development of new products or services for agricultural export markets.

(2) Development of new agricultural export markets.

(3) Creative marketing of products or services in agricultural export markets.

(g) **CRITERIA FOR QUALIFICATION.**—An entity may qualify for an award under this section only if the entity—

(1)(A) applies to the board established under subsection (h) in writing for the award; or

(B) is recommended for the award by a Governor of a State;

(2)(A) has exhibited significant entrepreneurial effort to create new markets for United States agricultural exports or increase United States agricultural exports; or

(B) has provided significant assistance to others in an effort to create new markets for United States agricultural exports or increase United States agricultural exports;

(3) has not received another award in the same category under subsection (f) during the preceding 5-year period; and

(4) meets such other requirements and specifications as the Secretary determines are appropriate to achieve the objectives of this section.

(h) **BOARD.**—

(1) **SELECTION.**—The Secretary shall appoint a board of evaluators, consisting of at least 5 individuals from the private sector selected for their knowledge and experience in exporting United States agricultural products.

(2) **MEETINGS.**—The board shall meet at least once annually to review and evaluate all applicants and entities recommended by States under subsection (g)(1).

(3) **RECOMMENDATIONS OF BOARD.**—The board shall report its recommendations concerning the making of the award to the Secretary. Reports.

(4) **TERM.**—Each member of the board may serve a term of not to exceed 3 years.

(i) **FUNDING.**—The Secretary may seek and accept gifts from public and private sources to carry out this section.

**SEC. 262. REPORTING REQUIREMENTS RELATING TO TOBACCO.**

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509) is repealed.

**SEC. 263. TRIGGERED EXPORT ENHANCEMENT.**

(a) **READJUSTMENT OF SUPPORT LEVELS.**—Section 1302 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 7 U.S.C. 1421 note) is repealed.

(b) **TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT.**—Section 4301 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 7 U.S.C. 1446 note) is repealed.

7 USC 1421 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall be effective beginning with the 1996 crops of wheat, feed grains, upland cotton, and rice.

**SEC. 264. DISPOSITION OF COMMODITIES TO PREVENT WASTE.**

Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended—

(1) in subsection (b)—

(A) in paragraph (7)—

(i) in subparagraph (D)(iv), by striking “one year of acquisition” and all that follows through the period at the end and inserting the following: “a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin—

“(I) as necessary to expedite the transportation of commodities and products furnished under this subsection; or

“(II) if the proceeds are generated in a currency generally accepted in the other country.”; and

(ii) by striking the sentence following subparagraph (F) and inserting the following: “The Secretary may approve the use of proceeds or services realized from the sale or barter of a commodity furnished under this subsection by a nonprofit voluntary agency, cooperative, or intergovernmental agency or organization to meet administrative expenses incurred in connection with activities undertaken under this subsection.”;

(B) in paragraph (8), by striking subparagraph (C);

and

(C) by striking paragraphs (10), (11), and (12); and

(2) by striking subsection (c).

**SEC. 265. DEBT-FOR-HEALTH-AND-PROTECTION SWAP.**

(a) **IN GENERAL.**—Section 1517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1706) is repealed.

(b) **TECHNICAL AMENDMENT.**—Subsection (e)(3) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(e)(3)) is amended by striking “section 106” and inserting “section 103”.

**SEC. 266. POLICY ON EXPANSION OF INTERNATIONAL MARKETS.**

Section 1207 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736m) is repealed.

**SEC. 267. POLICY ON MAINTENANCE AND DEVELOPMENT OF EXPORT MARKETS.**

Section 1121 of the Food Security Act of 1985 (7 U.S.C. 1736p) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by striking “(b)”; and

(B) by striking paragraphs (1) through (4) and inserting the following:

“(1) be the premier supplier of agricultural and food products to world markets and expand exports of high value products;

“(2) support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

“(3) cooperate fully in all efforts to negotiate with foreign countries further reductions in tariff and nontariff barriers to trade, including sanitary and phytosanitary measures and trade-distorting subsidies;

“(4) aggressively counter unfair foreign trade practices as a means of encouraging fairer trade;”.

**SEC. 268. POLICY ON TRADE LIBERALIZATION.**

Section 1122 of the Food Security Act of 1985 (7 U.S.C. 1736q) is repealed.

**SEC. 269. AGRICULTURAL TRADE NEGOTIATIONS.**

Section 1123 of the Food Security Act of 1985 (7 U.S.C. 1736r) is amended to read as follows:

**“SEC. 1123. TRADE NEGOTIATIONS POLICY.**

“(a) FINDINGS.—Congress finds that—

“(1) on a level playing field, United States producers are the most competitive suppliers of agricultural products in the world;

“(2) exports of United States agricultural products accounted for \$54,000,000,000 in 1995, contributing a net \$24,000,000,000 to the merchandise trade balance of the United States and supporting approximately 1,000,000 jobs;

“(3) increased agricultural exports are critical to the future of the farm, rural, and overall United States economy, but the opportunities for increased agricultural exports are limited by the unfair subsidies of the competitors of the United States, and a variety of tariff and nontariff barriers to highly competitive United States agricultural products;

“(4) international negotiations can play a key role in breaking down barriers to United States agricultural exports;

“(5) the Uruguay Round Agreement on Agriculture made significant progress in the attainment of increased market access opportunities for United States exports of agricultural products, for the first time—

“(A) restraining foreign trade-distorting domestic support and export subsidy programs; and

“(B) developing common rules for the application of sanitary and phytosanitary restrictions; that should result in increased exports of United States agricultural products, jobs, and income growth in the United States;

“(6) the Uruguay Round Agreement on Agriculture did not succeed in completely eliminating trade distorting domestic support and export subsidies by—

“(A) allowing the European Union to continue unreasonable levels of spending on export subsidies; and

“(B) failing to discipline monopolistic state trading entities, such as the Canadian Wheat Board, that use

nontransparent and discriminatory pricing as a hidden de facto export subsidy;

“(7) during the period 1996 through 2002, there will be several opportunities for the United States to negotiate fairer trade in agricultural products, including further negotiations under the World Trade Organization, and steps toward possible free trade agreements of the Americas and Asian-Pacific Economic Cooperation (APEC); and

“(8) the United States should aggressively use these opportunities to achieve more open and fair opportunities for trade in agricultural products.

“(b) GOALS OF THE UNITED STATES IN AGRICULTURAL TRADE NEGOTIATIONS.—The objectives of the United States with respect to future negotiations on agricultural trade include—

“(1) increasing opportunities for United States exports of agricultural products by eliminating tariff and nontariff barriers to trade;

“(2) leveling the playing field for United States producers of agricultural products by limiting per unit domestic production supports to levels that are no greater than those available in the United States;

“(3) ending the practice of export dumping by eliminating all trade distorting export subsidies and disciplining state trading entities so that they do not (except in cases of bona fide food aid) sell in foreign markets at prices below domestic market prices or prices below their full costs of acquiring and delivering agricultural products to the foreign markets; and

“(4) encouraging government policies that avoid price-depressing surpluses.”

**SEC. 270. POLICY ON UNFAIR TRADE PRACTICES.**

Section 1164 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1499) is repealed.

**SEC. 271. AGRICULTURAL AID AND TRADE MISSIONS.**

(a) IN GENERAL.—The Agricultural Aid and Trade Missions Act (7 U.S.C. 1736bb et seq.) is repealed.

(b) CONFORMING AMENDMENT.—Section 7 of Public Law 100-277 (7 U.S.C. 1736bb note) is repealed.

**SEC. 272. ANNUAL REPORTS BY AGRICULTURAL ATTACHES.**

Section 108(b)(1)(B) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(1)(B)) is amended by striking “including fruits, vegetables, legumes, popcorn and ducks”.

**SEC. 273. WORLD LIVESTOCK MARKET PRICE INFORMATION.**

Section 1545 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 7 U.S.C. 1761 note) is repealed.

**SEC. 274. ORDERLY LIQUIDATION OF STOCKS.**

Sections 201 and 207 of the Agricultural Act of 1956 (7 U.S.C. 1851 and 1857) are repealed.

**SEC. 275. SALES OF EXTRA LONG STAPLE COTTON.**

Section 202 of the Agricultural Act of 1956 (7 U.S.C. 1852) is repealed.

**SEC. 276. REGULATIONS.**

Section 707 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102-511; 7 U.S.C. 5621 note) is amended by striking subsection (d).

**SEC. 277. EMERGING MARKETS.**

(a) **PROMOTION OF AGRICULTURAL EXPORTS TO EMERGING MARKETS.**—

(1) **EMERGING MARKETS.**—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 7 U.S.C. 5622 note) is amended—

(A) in the section heading, by striking “EMERGING DEMOCRACIES” and inserting “EMERGING MARKETS”;

(B) by striking “emerging democracies” each place it appears in subsections (b), (d), and (e) and inserting “emerging markets”;

(C) in subsection (c), by striking “emerging democracy” each place it appears and inserting “emerging market”;

and  
(D) by striking subsection (f) and inserting the following:

“(f) **EMERGING MARKET.**—In this section and section 1543, the term ‘emerging market’ means any country that the Secretary determines—

“(1) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

“(2) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.”

(2) **FUNDING.**—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking subsection (a) and inserting the following:

“(a) **FUNDING.**—The Commodity Credit Corporation shall make available for fiscal years 1996 through 2002 not less than \$1,000,000,000 of direct credits or export credit guarantees for exports to emerging markets under section 201 or 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 and 5622), in addition to the amounts acquired or authorized under section 211 of the Act (7 U.S.C. 5641) for the program.”

(3) **AGRICULTURAL FELLOWSHIP PROGRAM.**—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended—

(A) in subsection (b), by striking the last sentence and inserting the following: “The Commodity Credit Corporation shall give priority under this subsection to—

“(A) projects that encourage the privatization of the agricultural sector or that benefit private farms or cooperatives in emerging markets; and

“(B) projects for which nongovernmental persons agree to assume a relatively larger share of the costs.”; and

(B) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking “the Soviet Union” and inserting “emerging markets”;

(ii) in paragraph (1)—

(I) in subparagraph (A)(i)—

(aa) by striking “1995” and inserting “2002”; and

(bb) by striking “those systems, and identify” and inserting “the systems, including potential reductions in trade barriers, and identify and carry out”;

(II) in subparagraph (B), by striking “shall” and inserting “may”;

(III) in subparagraph (D), by inserting “(including the establishment of extension services)” after “technical assistance”;

(IV) by striking subparagraph (F); and

(V) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (F), (G), and (H), respectively;

(iii) in paragraph (2)—

(I) by striking “the Soviet Union” each place it appears and inserting “emerging markets”;

(II) in subparagraph (A), by striking “a free market food production and distribution system” and inserting “free market food production and distribution systems”;

(III) in subparagraph (B)—

(aa) in clause (i), by striking “Government” and inserting “governments”;

(bb) in clause (iii)(II), by striking “and” at the end;

(cc) in clause (iii)(III), by striking the period at the end and inserting “; and”;

(dd) by adding at the end of clause (iii) the following:

“(IV) to provide for the exchange of administrators and faculty members from agricultural and other institutions to strengthen and revise educational programs in agricultural economics, agribusiness, and agrarian law, to support change towards a free market economy in emerging markets.”;

(IV) by striking subparagraph (D); and

(V) by redesignating subparagraph (E) as subparagraph (D); and

(iv) by striking paragraph (3).

(4) UNITED STATES AGRICULTURAL COMMODITY.—Subsections (b) and (c) of section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 are amended by striking “section 101(6)” each place it appears and inserting “section 102(7)”.

(5) REPORT.—The first sentence of section 1542(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking “Not” and inserting “Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), not”.

(b) AGRICULTURAL FELLOWSHIP PROGRAM FOR MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS.—Section 1543 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293) is amended—

(1) in the section heading, by striking “MIDDLE INCOME COUNTRIES AND EMERGING DEMOCRACIES” and inserting “MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS”;

(2) in subsection (b), by adding at the end the following: “(5) EMERGING MARKET.—Any emerging market, as defined in section 1542(f).”; and

(3) in subsection (c)(1), by striking “food needs” and inserting “food and fiber needs”.

(c) CONFORMING AMENDMENTS.—

(1) Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(A) in subsection (a), by striking “emerging democracies” and inserting “emerging markets”; and

(B) in subsection (b), by striking paragraph (1) and inserting the following:

“(1) EMERGING MARKET.—The term ‘emerging market’ means any country that the Secretary determines—

“(A) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

“(B) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.”.

(2) Section 201(d)(1)(C)(ii) of the Agricultural Trade Act of 1978 (7 U.S.C. 5621(d)(1)(C)(ii)) is amended by striking “emerging democracies” and inserting “emerging markets”.

(3) Section 202(d)(3)(B) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(d)(3)(B)) is amended by striking “emerging democracies” and inserting “emerging markets”.

#### SEC. 278. REIMBURSEMENT FOR OVERHEAD EXPENSES.

Section 1542(d)(1)(D) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 7 U.S.C. 5622 note) is amended by adding at the end the following: “Notwithstanding any other provision of law, the assistance shall include assistance for administrative and overhead expenses of the International Cooperation and Development Program Area of the Foreign Agriculture Service, to the extent that the expenses were incurred pursuant to reimbursable agreements entered into prior to September 30, 1993, the expenses do not exceed \$2,000,000 per year, and the expenses are not incurred for information technology systems.”.

#### SEC. 279. LABELING OF DOMESTIC AND IMPORTED LAMB AND MUTTON.

Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:

“(f) LAMB AND MUTTON.—The Secretary, consistent with United States international obligations, shall establish standards for the labeling of sheep carcasses, parts of sheep carcasses, sheepmeat, and sheepmeat food products.”. Standards.

#### SEC. 280. IMPORT ASSISTANCE FOR CBI BENEFICIARY COUNTRIES AND THE PHILIPPINES.

Section 583 of Public Law 100-202 (101 Stat. 1329-182) is repealed.

**SEC. 281. STUDIES, REPORTS, AND OTHER PROVISIONS.**

7 USC 624 note.

(a) **IN GENERAL.**—Sections 1551 through 1555, section 1558, and section 1559 of subtitle E of title XV of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3696) (as redesignated by section 1011(d) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66; 109 Stat. 709)) are repealed.

(b) **LANGUAGE PROFICIENCY.**—Section 1556 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 7 U.S.C. 5694 note) is amended by striking subsection (c).

**SEC. 282. SENSE OF CONGRESS CONCERNING MULTILATERAL DISCIPLINES ON CREDIT GUARANTEES.**

It is the sense of Congress that—

(1) in negotiations to establish multilateral disciplines on agricultural export credits and credit guarantees, the United States should not agree to any arrangement that is incompatible with the provisions of United States law that authorize agricultural export credits and credit guarantees;

(2) in the negotiations (which are held under the auspices of the Organization for Economic Cooperation and Development), the United States should not reach any agreement that fails to impose disciplines on the practices of foreign government trading entities such as the Australian Wheat Board, the Canadian Wheat Board, the New Zealand Dairy Board, and the Australian Dairy Board; and

(3) the disciplines should include greater openness in the operations of the entities as long as the entities are subsidized by the foreign government or have monopolies for exports of a commodity that are sanctioned by the foreign government.

22 USC 288 note.

**SEC. 283. INTERNATIONAL COTTON ADVISORY COMMITTEE.**

President.

(a) **IN GENERAL.**—The President shall ensure that the Government of the United States participates as a full member of the International Cotton Advisory Committee.

(b) **REPRESENTATION BY THE SECRETARY.**—The Secretary of Agriculture shall represent the Government of the United States as a member of the International Cotton Advisory Committee and shall delegate the primary responsibility to represent the Government of the United States to appropriately qualified individuals.

**TITLE III—CONSERVATION****Subtitle A—Definitions****SEC. 301. DEFINITIONS APPLICABLE TO HIGHLY ERODIBLE CROPLAND CONSERVATION.**

(a) **CONSERVATION PLAN AND CONSERVATION SYSTEM.**—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

(1) by redesignating paragraphs (2) through (16) as paragraphs (4) through (18), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) **CONSERVATION PLAN.**—The term ‘conservation plan’ means the document that—

“(A) applies to highly erodible cropland;

“(B) describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule; and

“(C) is approved by the local soil conservation district, in consultation with the local committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) and the Secretary, or by the Secretary.

“(3) CONSERVATION SYSTEM.—The term ‘conservation system’ means a combination of 1 or more conservation measures or management practices that—

“(A) are based on local resource conditions, available conservation technology, and the standards and guidelines contained in the Natural Resources Conservation Service field office technical guides; and

“(B) are designed to achieve, in a cost effective and technically practicable manner, a substantial reduction in soil erosion or a substantial improvement in soil conditions on a field or group of fields containing highly erodible cropland when compared to the level of erosion or soil conditions that existed before the application of the conservation measures and management practices.”

(b) FIELD.—Section 1201(a) of the Food Security Act of 1985 is amended by striking paragraph (7) (as redesignated by subsection (a)(1)) and inserting the following: 16 USC 3801.

“(7) FIELD.—The term ‘field’ means a part of a farm that is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, or other similar features. At the option of the owner or operator of the farm, croplines may also be used to delineate a field if farming practices make it probable that the croplines are not subject to change. Any highly erodible land on which an agricultural commodity is produced after December 23, 1985, and that is not exempt under section 1212, shall be considered as part of the field in which the land was included on December 23, 1985, unless the owner and Secretary agree to modification of the boundaries of the field to carry out this title.”

(c) HIGHLY ERODIBLE LAND.—Section 1201(a)(9) of the Food Security Act of 1985 (as redesignated by subsection (a)(1)) is amended by adding at the end the following:

“(C) EQUATIONS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall publish in the Federal Register the universal soil loss equation and wind erosion equation used by the Department of Agriculture as of that date. The Secretary may not change the equations after that date except following notice and comment in a manner consistent with section 553 of title 5, United States Code.”

Federal Register,  
publication.

(d) CONFORMING AMENDMENTS.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended—

(1) in the first sentence of subsection (a)(2), by striking “that documents” and all that follows through “by the Secretary”;

(2) in subsection (c)(3), by striking “based on” and all that follows through “and the Secretary,” and inserting “, in which case,”;

(3) in subsection (e)(1)(A), by striking “conservation compliance plan” and inserting “conservation plan”; and

(4) in subsection (f)—

(A) in paragraph (1), by striking “that documents” and all that follows through “under subsection (a)”;

(B) in paragraph (3), by striking “prepared under subsection (a)”;

(C) in paragraph (4), by striking “that documents” and all that follows through “subsection (a)”.

## Subtitle B—Highly Erodible Land Conservation

### SEC. 311. PROGRAM INELIGIBILITY.

Effective date.

Effective 90 days after the date of enactment of this Act, section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended—

(1) in the matter preceding paragraph (1), by striking “following the date of enactment of this Act,”;

(2) in paragraph (1)—

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

“(A) contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;”;

(B) by striking subparagraph (C);

(C) in subparagraph (D), by striking “made under” and all that follows through “August 14, 1989”;

(D) in subparagraph (E), by striking “Farmers Home Administration” and inserting “Consolidated Farm Service Agency”; and

(E) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(3) by striking paragraph (3) and inserting the following: “(3) during the crop year—

“(A) a payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D;

“(B) a payment under any other provision of subtitle D;

“(C) a payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202); or

“(D) a payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).”.

### SEC. 312. CONSERVATION RESERVE LANDS.

Section 1212(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3812(a)(3)) is amended by striking “shall, if the conservation plan established under this subtitle for such land requires structures to be constructed,” and inserting “shall only be required to apply

a conservation plan established under this subtitle. The person shall not be required to meet a higher conservation standard than the standard applied to other highly erodible cropland located within the same area. If the person's conservation plan requires structures to be constructed, the person shall".

**SEC. 313. GOOD FAITH EXEMPTION.**

(a) **GRACE PERIOD TO RESUME CONSERVATION COMPLIANCE.**—Section 1212(f)(1) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(1)) is amended—

(1) by striking "Except to the extent provided in paragraph (2), no" and inserting "No"; and

(2) by striking "such person has—" and all that follows through the period at the end of subparagraph (B) and inserting the following: "the person has acted in good faith and without an intent to violate this subtitle. A person who meets the requirements of this paragraph shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the person's conservation plan."

(b) **SPECIAL PENALTIES REGARDING CERTAIN HIGHLY ERODIBLE CROPLAND.**—Section 1212(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(2)) is amended by striking "meets the requirements of paragraph (1)" and inserting "with respect to highly erodible cropland that was not in production prior to December 23, 1985, and has acted in good faith and without an intent to violate the provisions".

(c) **CONFORMING AMENDMENT.**—Section 1212(f)(4) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(4)) is amended by striking the last sentence.

**SEC. 314. EXPEDITED PROCEDURES FOR GRANTING VARIANCES FROM CONSERVATION PLANS.**

Section 1212(f) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(4)) is amended—

(1) in paragraph (4)(C), by striking "problem" and inserting "problem, including weather, pest, and disease problems"; and

(2) by adding at the end the following:

"(5) **EXPEDITED PROCEDURES FOR TEMPORARY VARIANCES.**—After consultation with local conservation districts, the Secretary shall establish expedited procedures for the consideration and granting of temporary variances under paragraph (4)(C). If the request for a temporary variance under paragraph (4)(C) involves the use of practices or measures to address weather, pest, or disease problems, the Secretary shall make a decision on whether to grant the variance during the 30-day period beginning on the date of receipt of the request. If the Secretary fails to render a decision during the period, the temporary variance shall be considered granted."

**SEC. 315. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND CONSERVATION SYSTEMS.**

(a) **DEVELOPMENT AND IMPLEMENTATION.**—The Food Security Act of 1985 is amended—

(1) by redesignating section 1213 (16 U.S.C. 3813) as section 1214; and

(2) by inserting after section 1212 (16 U.S.C. 3812) the following:

16 USC 3812a.

**“SEC. 1213. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND CONSERVATION SYSTEMS.**

“(a) **TECHNICAL REQUIREMENTS.**—In connection with the standards and guidelines contained in Natural Resources Conservation Service field office technical guides applicable to the development and use of conservation measures and management practices as part of a conservation system, the Secretary shall ensure that the standards and guidelines permit a person to use a conservation system that—

“(1) is technically and economically feasible;

“(2) is based on local resource conditions and available conservation technology;

“(3) is cost-effective; and

“(4) does not cause undue economic hardship on the person applying the conservation system under the person’s conservation plan.

“(b) **MEASUREMENT OF EROSION REDUCTION.**—For the purpose of determining whether there is a substantial reduction in soil erosion on a field containing highly erodible cropland, the measurement of erosion reduction achieved by the application of a conservation system under a person’s conservation plan shall be based on the estimated annual level of erosion at the time of the measurement compared to the estimated annual level of erosion that existed before the implementation of the conservation measures and management practices provided for in the conservation system.

“(c) **RESIDUE MEASUREMENT.**—

“(1) **RESPONSIBILITIES OF THE SECRETARY.**—For the purpose of measuring the level of residue on a field, the Secretary shall—

“(A) take into account any residue incorporated into the top 2 inches of soil, as well as the growing crop, in the measurement;

“(B) provide technical guidelines for acceptable residue measurement methods;

“(C) provide a certification system for third parties to perform residue measurements; and

“(D) provide for the acceptance and use of information and data voluntarily provided by the producer regarding the field.

“(2) **ACCEPTANCE OF PRODUCER MEASUREMENTS.**—Annual residue measurements supplied by a producer (including measurements performed by a certified third party) shall be used by the Secretary if the Secretary determines that the measurements indicate that the residue level for the field meets the level required under the conservation plan.

“(d) **CERTIFICATION OF COMPLIANCE.**—

“(1) **IN GENERAL.**—For the purpose of determining the eligibility of a person for program benefits specified in section 1211 at the time application is made for the benefits, the Secretary shall permit the person to certify that the person is complying with the person’s conservation plan.

“(2) **STATUS REVIEWS.**—If a person makes a certification under paragraph (1), the Secretary shall not be required to carry out a review of the status of compliance of the person

with the conservation plan under which the conservation system is being applied.

“(3) REVISIONS AND MODIFICATIONS.—The Secretary shall permit a person who makes a certification under paragraph (1) with respect to a conservation plan to revise the conservation plan in any manner, if the same level of conservation treatment provided for by the conservation system under the person’s conservation plan is maintained. The Secretary may not revise the person’s conservation plan without the concurrence of the person.

“(e) TECHNICAL ASSISTANCE.—The Secretary shall, using available resources and consistent with the Secretary’s other conservation responsibilities and objectives, provide technical assistance to a person throughout the development, revision, and application of the conservation plan and any conservation system of the person. At the request of the person, the Secretary may provide technical assistance regarding conservation measures and management practices for other lands of the person that do not contain highly erodible cropland.

“(f) ENCOURAGEMENT OF ON-FARM RESEARCH.—To encourage on-farm conservation research, the Secretary may allow a person to include in the person’s conservation plan or a conservation system under the plan, on a field trial basis, practices that are not currently approved but that the Secretary considers have a reasonable likelihood of success.”

(b) TREATMENT OF TECHNICAL DETERMINATIONS.—Section 226(d)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(d)(2)) is amended—

(1) by striking “DETERMINATION.—With” and inserting “DETERMINATION.—

“(A) IN GENERAL.—With”; and

(2) by adding at the end the following:

“(B) ECONOMIC HARDSHIP.—After a technical determination has been made, on a producer’s request, if a county or area committee determines that the application of the producer’s conservation system would impose an undue economic hardship on the producer, the committee shall provide the producer with relief to avoid the hardship.”

**SEC. 316. INVESTIGATION OF POSSIBLE COMPLIANCE DEFICIENCIES.**

Subtitle B of title XII of the Food Security Act of 1985 (as amended by section 315(a)(1)) is amended by adding at the end the following:

**“SEC. 1215. NOTICE AND INVESTIGATION OF POSSIBLE COMPLIANCE DEFICIENCIES. 16 USC 3814.**

“(a) IN GENERAL.—An employee of the Department of Agriculture who observes a possible compliance deficiency or other potential violation of a conservation plan or this subtitle while providing on-site technical assistance shall provide to the responsible persons, not later than 45 days after observing the possible violation, information regarding actions needed to comply with the plan and this subtitle. The employee shall provide the information in lieu of reporting the observation as a compliance violation.

“(b) CORRECTIVE ACTION.—The responsible persons shall attempt to correct the deficiencies as soon as practicable after receiving the information.

“(c) REVIEW.—If the corrective action is not fully implemented not later than 1 year after the responsible persons receive the information, the Secretary may conduct a review of the status of compliance of the persons with the conservation plan and this subtitle.”

16 USC 3811  
note.

**SEC. 317. WIND EROSION ESTIMATION PILOT PROJECT.**

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a pilot project to review, and modify as appropriate, the use of wind erosion factors under the highly erodible conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.).

(b) SELECTION OF COUNTIES AND PRODUCERS.—The pilot project shall be conducted for producers in those counties that—

(1) have approximately 100 percent of their cropland determined to be highly erodible under title XII of the Act;

(2) have a reasonable likelihood that the use of wind erosion factors under title XII of the Act have resulted in an inequitable application of the highly erodible land requirements of title XII of the Act; and

(3) if the use of the land classification system under section 1201(a)(9)(A) of the Act (as redesignated by section 301(a)(1)) may result in a more accurate delineation of the cropland.

(c) ERRORS IN DELINEATION.—If the Secretary determines that a significant error has occurred in delineating cropland under the pilot project, the Secretary shall, at the request of the owners or operators of the cropland, conduct a new delineation of the cropland using the most accurate available delineation process, as determined by the Secretary.

## Subtitle C—Wetland Conservation

**SEC. 321. PROGRAM INELIGIBILITY.**

(a) PROGRAM INELIGIBILITY.—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by striking the section heading and all that follows through the end of subsection (a) and inserting the following:

**“SEC. 1221. PROGRAM INELIGIBILITY.**

“(a) PRODUCTION ON CONVERTED WETLAND.—Except as provided in this subtitle and notwithstanding any other provision of law, any person who in any crop year produces an agricultural commodity on converted wetland, as determined by the Secretary, shall be—

“(1) in violation of this section; and

“(2) ineligible for loans or payments in an amount determined by the Secretary to be proportionate to the severity of the violation.

“(b) INELIGIBILITY FOR CERTAIN LOANS AND PAYMENTS.—If a person is determined to have committed a violation under subsection (a) during a crop year, the Secretary shall determine which of, and the amount of, the following loans and payments for which the person shall be ineligible:

“(1) Contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market

Transition Act, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act.

“(2) A loan made or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of the loan will be used for a purpose that will contribute to conversion of a wetland (other than as provided in this subtitle) to produce an agricultural commodity.

“(3) During the crop year:

“(A) A payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D.

“(B) A payment under any other provision of subtitle D.

“(C) A payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202).

“(D) A payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).”

(b) CONFORMING AMENDMENTS.—

(1) Section 1221(c) of the Food Security Act of 1985 (as redesignated by subsection (a)(1)) is amended—

(A) by striking “Except” and inserting “WETLAND CONVERSION.—Except”;

(B) by striking “subsequent to the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990” and inserting “beginning after November 28, 1990,”; and

(C) by striking “subsections (a) (1) through (3)” and inserting “subsection (b)”.

(2) Section 1221 of the Food Security Act of 1985 (as amended by subsection (a)) is amended by adding at the end the following:

“(d) PRIOR LOANS.—This section shall not apply to a loan described in subsection (b) made before December 23, 1985.”

**SEC. 322. DELINEATION OF WETLANDS; EXEMPTIONS TO PROGRAM INELIGIBILITY.**

(a) DELINEATION OF WETLANDS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (a) and inserting the following:

“(a) DELINEATION BY THE SECRETARY.—

“(1) IN GENERAL.—Subject to subsection (b) and paragraph (6), the Secretary shall delineate, determine, and certify all wetlands located on subject land on a farm.

“(2) WETLAND DELINEATION MAPS.—The Secretary shall delineate wetlands on wetland delineation maps. On the request of a person, the Secretary shall make a reasonable effort to make an on-site wetland determination prior to delineation.

“(3) CERTIFICATION.—On providing notice to affected persons, the Secretary shall—

“(A) certify whether a map is sufficient for the purpose of making a determination of ineligibility for program benefits under section 1221; and

“(B) provide an opportunity to appeal the certification prior to the certification becoming final.

“(4) DURATION OF CERTIFICATION.—A final certification made under paragraph (3) shall remain valid and in effect as long as the area is devoted to an agricultural use or until such time as the person affected by the certification requests review of the certification by the Secretary.

“(5) REVIEW OF MAPPING ON APPEAL.—In the case of an appeal of the Secretary’s certification, the Secretary shall review and certify the accuracy of the mapping of all land subject to the appeal to ensure that the subject land has been accurately delineated. Prior to rendering a decision on the appeal, the Secretary shall conduct an on-site inspection of the subject land on a farm.

“(6) RELIANCE ON PRIOR CERTIFIED DELINEATION.—No person shall be adversely affected because of having taken an action based on a previous certified wetland delineation by the Secretary. The delineation shall not be subject to a subsequent wetland certification or delineation by the Secretary, unless requested by the person under paragraph (4).”

(b) EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (b) and inserting the following:

“(b) EXEMPTIONS.—No person shall become ineligible under section 1221 for program loans or payments under the following circumstances:

“(1) As the result of the production of an agricultural commodity on the following lands:

“(A) A converted wetland if the conversion of the wetland was commenced before December 23, 1985.

“(B) Land that is a nontidal drainage or irrigation ditch excavated in upland.

“(C) A wet area created by a water delivery system, irrigation, irrigation system, or application of water for irrigation.

“(D) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

“(E) Land that is an artificial lake or pond created by excavating or diking land (that is not a wetland) to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, or rice production, or as a settling pond.

“(F) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

“(G) A converted wetland if the original conversion of the wetland was commenced before December 23, 1985, and the Secretary determines the wetland characteristics returned after that date as a result of—

“(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

“(ii) a lack of management of the lands containing the wetland; or

“(iii) circumstances beyond the control of the person.

“(H) A converted wetland, if—

“(i) the converted wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

“(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;

“(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

“(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.

“(2) For the conversion of the following:

“(A) An artificial lake or pond created by excavating or diking land that is not a wetland to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, rice production, or as a settling pond.

“(B) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

“(C) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

“(D) A wetland previously identified as a converted wetland (if the original conversion of the wetland was commenced before December 23, 1985), but that the Secretary determines returned to wetland status after that date as a result of—

“(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

“(ii) a lack of management of the lands containing the wetland; or

“(iii) circumstances beyond the control of the person.

“(E) A wetland, if—

“(i) the wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

“(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;

“(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

“(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.”

(c) IDENTIFICATION OF MINIMAL EFFECT EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (d) and inserting the following:

“(d) IDENTIFICATION OF MINIMAL EFFECT EXEMPTIONS.—For purposes of applying the minimal effect exemption under subsection (f)(1), the Secretary shall identify by regulation categorical minimal effect exemptions on a regional basis to assist persons in avoiding a violation of the ineligibility provisions of section 1221. The Secretary shall ensure that employees of the Department of Agriculture who administer this subtitle receive appropriate training to properly apply the minimal effect exemptions determined by the Secretary.”

(d) MINIMAL EFFECT AND MITIGATION EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (f) and inserting the following:

“(f) MINIMAL EFFECT; MITIGATION.—The Secretary shall exempt a person from the ineligibility provisions of section 1221 for any action associated with the production of an agricultural commodity on a converted wetland, or the conversion of a wetland, if 1 or more of the following conditions apply, as determined by the Secretary:

“(1) The action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetlands in the area, including the value to waterfowl and wildlife.

“(2) The wetland and the wetland values, acreage, and functions are mitigated by the person through the restoration of a converted wetland, the enhancement of an existing wetland, or the creation of a new wetland, and the restoration, enhancement, or creation is—

“(A) in accordance with a wetland conservation plan;

“(B) in advance of, or concurrent with, the action;

“(C) not at the expense of the Federal Government;

“(D) in the case of enhancement or restoration of wetlands, on not greater than a 1-for-1 acreage basis unless more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion to be mitigated;

“(E) in the case of creation of wetlands, on greater than a 1-for-1 acreage basis if more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion that is mitigated;

“(F) on lands in the same general area of the local watershed as the converted wetland; and

“(G) with respect to the restored, enhanced, or created wetland, made subject to an easement that—

“(i) is recorded on public land records;

“(ii) remains in force for as long as the converted wetland for which the restoration, enhancement, or creation to be mitigated remains in agricultural use or is not returned to its original wetland classification with equivalent functions and values; and

“(iii) prohibits making alterations to the restored, enhanced, or created wetland that lower the wetland’s functions and values.

“(3) The wetland was converted after December 23, 1985, but before November 28, 1990, and the wetland values, acreage, and functions are mitigated by the producer through the requirements of subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (2).

“(4) The action was authorized by a permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) and the wetland values, acreage, and functions of the converted wetland were adequately mitigated for the purposes of this subtitle.”

(e) REFERENCES TO PRODUCER.—Section 1222(g) of the Food Security Act of 1985 (16 U.S.C. 3822(g)) is amended by striking “producer” and inserting “person”.

(f) GOOD FAITH EXEMPTION.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (h) and inserting the following:

“(h) GOOD FAITH EXEMPTION.—

“(1) EXEMPTION DESCRIBED.—The Secretary may waive a person’s ineligibility under section 1221 for program loans, payments, and benefits as the result of the conversion of a wetland subsequent to November 28, 1990, or the production of an agricultural commodity on a converted wetland, if the Secretary determines that the person has acted in good faith and without intent to violate this subtitle.

“(2) PERIOD FOR COMPLIANCE.—The Secretary shall provide a person who the Secretary determines has acted in good faith and without intent to violate this subtitle with a reasonable period, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to actively restoring the subject wetland.”

(g) RESTORATION.—Section 1222(i) of the Food Security Act of 1985 (16 U.S.C. 3822(i)) is amended by inserting before the period at the end the following: “or has otherwise mitigated for the loss of wetland values, as determined by the Secretary, through the restoration, enhancement, or creation of wetland values in the same general area of the local watershed as the converted wetland”

(h) DETERMINATIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (j) and inserting the following:

“(j) DETERMINATIONS; RESTORATION AND MITIGATION PLANS; MONITORING ACTIVITIES.—Technical determinations, the development of restoration and mitigation plans, and monitoring activities under this section shall be made by the National Resources Conservation Service.”

(i) **MITIGATION BANKING.**—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by adding at the end the following:

“(k) **MITIGATION BANKING PROGRAM.**—Using authorities available to the Secretary, the Secretary may operate a pilot program for mitigation banking of wetlands to assist persons to increase the efficiency of agricultural operations while protecting wetland functions and values. Subsection (f)(2)(C) shall not apply to this subsection.”.

**SEC. 323. CONSULTATION AND COOPERATION REQUIREMENTS.**

Section 1223 of the Food Security Act of 1985 (16 U.S.C. 3823) is repealed.

**SEC. 324. APPLICATION OF PROGRAM INELIGIBILITY TO AFFILIATED PERSONS.**

The Food Security Act of 1985 (as amended by section 323) is amended by inserting after section 1222 (16 U.S.C. 3822) the following:

16 USC 3823.

**“SEC. 1223. AFFILIATED PERSONS.**

“If a person is affected by a reduction in benefits under section 1221 and the affected person is affiliated with other persons for the purpose of receiving the benefits, the benefits of each affiliated person shall be reduced under section 1221 in proportion to the interest held by the affiliated person.”.

**SEC. 325. CLARIFICATION OF DEFINITION OF AGRICULTURAL LANDS IN MEMORANDUM OF AGREEMENT.**

(a) **AGRICULTURAL LANDS.**—For purposes of implementing the memorandum of agreement entered into between the Department of Agriculture, the Environmental Protection Agency, the Department of the Interior, and the Department of the Army on January 6, 1994, relating to the delineation of wetlands, the term “agricultural lands” shall include—

- (1) native pasture, rangelands, and other lands used to produce or support the production of livestock; and
- (2) tree farms.

(b) **WETLAND CONSERVATION.**—Subsection (a) shall not apply with respect to the delineation of wetlands under subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) or to the enforcement of the subtitle.

(c) **SUCCESSOR MEMORANDUM.**—Subsection (a) shall apply to any amendment to or successor of the memorandum of agreement described in subsection (a).

16 USC 3821  
note.

**SEC. 326. EFFECTIVE DATE.**

This subtitle and the amendments made by this subtitle shall become effective 90 days after the date of enactment of this Act.

## **Subtitle D—Environmental Conservation Acreage Reserve Program**

**SEC. 331. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.**

Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended to read as follows:

**“SEC. 1230. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.**

**“(a) ESTABLISHMENT.—**

**“(1) IN GENERAL.—**During the 1996 through 2002 calendar years, the Secretary shall establish an environmental conservation acreage reserve program (referred to in this section as ‘ECARP’) to be implemented through contracts and the acquisition of easements to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources, including grazing land, wetland, and wildlife habitat.

**“(2) MEANS.—**The Secretary shall carry out the ECARP by—

**“(A) providing for the long-term protection of environmentally sensitive land; and**

**“(B) providing technical and financial assistance to farmers and ranchers to—**

**“(i) improve the management and operation of the farms and ranches; and**

**“(ii) reconcile productivity and profitability with protection and enhancement of the environment.**

**“(3) PROGRAMS.—**The ECARP shall consist of—

**“(A) the conservation reserve program established under subchapter B;**

**“(B) the wetlands reserve program established under subchapter C; and**

**“(C) the environmental quality incentives program established under chapter 4.**

**“(b) ADMINISTRATION.—**

**“(1) IN GENERAL.—**In carrying out the ECARP, the Secretary shall enter into contracts with owners and operators and acquire interests in land through easements from owners, as provided in this chapter and chapter 4.

Contracts.

**“(2) PRIOR ENROLLMENTS.—**Acreage enrolled in the conservation reserve or wetlands reserve program prior to the date of enactment of this paragraph shall be considered to be placed into the ECARP.

**“(c) CONSERVATION PRIORITY AREAS.—**

**“(1) DESIGNATION.—**The Secretary may designate watersheds, multistate areas, or regions of special environmental sensitivity as conservation priority areas that are eligible for enhanced assistance under this chapter and chapter 4.

**“(2) ASSISTANCE.—**The Secretary may designate areas as conservation priority areas to assist, to the maximum extent practicable, agricultural producers within the conservation priority areas to comply with nonpoint source pollution requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and other Federal and State environmental laws and to meet other conservation needs.

**“(3) PRODUCERS.—**The Secretary may provide technical assistance, cost-share payments, and incentive payments to producers in a conservation priority area under this chapter and chapter 4 based on—

**“(A) the significance of the soil, water, wildlife habitat, and related natural resource problems in a watershed, multistate area, or region; and**

“(B) the structural practices or land management practices that best address the problems, and that maximize environmental benefits for each dollar expended, as determined by the Secretary.”

**SEC. 332. CONSERVATION RESERVE PROGRAM.**

(a) PROGRAM EXTENSIONS.—

(1) CONSERVATION RESERVE PROGRAM.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by striking “1995” each place it appears and inserting “2002”.

(2) DUTIES OF OWNERS AND OPERATORS.—Section 1232(c) of the Food Security Act of 1985 (16 U.S.C. 3832(c)) is amended by striking “1995” and inserting “2002”.

(b) MAXIMUM ENROLLMENT.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by striking subsection (d) and inserting the following:

“(d) MAXIMUM ENROLLMENT.—The Secretary may maintain up to 36,400,000 acres in the conservation reserve at any one time during the 1986 through 2002 calendar years (including contracts extended by the Secretary pursuant to section 1437(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 16 U.S.C. 3831 note)).”

(c) OPTIONAL CONTRACT TERMINATION BY PRODUCERS.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “3-year” and inserting “1-year”; and

(B) in paragraph (2)(B)(i), by striking “3 years” and inserting “1 year”; and

(2) by adding at the end the following:

“(e) TERMINATION BY OWNER OR OPERATOR.—

“(1) EARLY TERMINATION AUTHORIZED.—Subject to the other provisions of this subsection, the Secretary shall allow a participant who entered into a contract before January 1, 1995, to terminate the contract at any time if the contract has been in effect for at least 5 years. The termination shall not relieve the participant of liability for a contract violation occurring before the date of the termination. The participant shall provide the Secretary with reasonable notice of the participant's desire to terminate the contract.

“(2) CERTAIN LANDS EXCEPTED.—The following lands shall not be subject to an early termination of contract under this subsection:

“(A) Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, and shelterbelts.

“(B) Land with an erodibility index of more than 15.

“(C) Other lands of high environmental value (including wetlands), as determined by the Secretary.

“(3) EFFECTIVE DATE.—The contract termination shall become effective 60 days after the date on which the owner or operator submits the notice required under paragraph (1).

“(4) PRORATED RENTAL PAYMENT.—If a contract entered into under this subchapter is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

“(5) RENEWED ENROLLMENT.—The termination of a contract entered into under this subchapter shall not affect the ability of the owner or operator who requested the termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

“(6) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subtitles B and C shall apply to the use of the land to the extent that the requirements are similar to those requirements imposed on other similar lands in the area, except that the requirements may not be more onerous than the requirements imposed on other lands.”

(d) ENROLLMENTS IN 1997.—Section 725 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 (Public Law 104-37; 109 Stat. 332), is amended by striking “: *Provided*,” and all that follows through “1997”.

#### SEC. 333. WETLANDS RESERVE PROGRAM.

(a) ENROLLMENT.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended by striking subsection (b) and inserting the following:

“(b) ENROLLMENT CONDITIONS.—

“(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 975,000 acres.

“(2) METHODS OF ENROLLMENT.—

“(A) IN GENERAL.—Subject to subparagraph (B), effective beginning October 1, 1996, to the maximum extent practicable, the Secretary shall enroll into the wetlands reserve program—

“(i)  $\frac{1}{3}$  of the acres through the use of permanent easements;

“(ii)  $\frac{1}{3}$  of the acres through the use of 30-year easements; and

“(iii)  $\frac{1}{3}$  of the acres through the use of restoration cost-share agreements.

“(B) TEMPORARY EASEMENTS.—Effective beginning October 1, 1996, the Secretary shall not enroll acres in the wetlands reserve program through the use of new permanent easements until the Secretary has enrolled at least 75,000 acres in the program through the use of temporary easements.”

(b) ELIGIBILITY.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended—

(1) by striking “2000” and inserting “2002”;

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(3) by inserting after “determines that—” the following:

“(1) such land maximizes wildlife benefits and wetland values and functions.”

(c) OTHER ELIGIBLE LANDS.—Section 1237(d) of the Food Security Act of 1985 (16 U.S.C. 3837(d)) is amended—

(1) by inserting after “subsection (c)” the following “, land that maximizes wildlife benefits and that is”; and

(2) in paragraph (2), by striking “and” at the end and inserting “or”.

(d) EASEMENTS.—Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended—

(1) in the section heading, by inserting before the period at the end the following: “AND AGREEMENTS”;

(2) by striking subsection (c) and inserting the following: “(c) RESTORATION PLANS.—The development of a restoration plan, including any compatible use, under this section shall be made through the local Natural Resources Conservation Service representative, in consultation with the State technical committee.”;

(3) in subsection (f), by striking the third sentence and inserting the following: “Compensation may be provided in not less than 5, nor more than 30, annual payments of equal or unequal size, as agreed to by the owner and the Secretary.”; and

(4) by adding at the end the following:

“(h) RESTORATION COST-SHARE AGREEMENTS.—The Secretary may enroll land into the wetlands reserve program through an agreement that requires the landowner to restore wetlands on the land, if the agreement does not provide the Secretary with an easement.”.

(e) COST-SHARE AND TECHNICAL ASSISTANCE.—Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended by striking subsection (b) and inserting the following:

“(b) COST-SHARE AND TECHNICAL ASSISTANCE.—

“(1) EASEMENTS.—Effective beginning October 1, 1996, in making cost-share payments under subsection (a)(1), the Secretary shall—

“(A) in the case of a permanent easement, pay the owner an amount that is not less than 75 percent, but not more than 100 percent, of the eligible costs; and

“(B) in the case of a 30-year easement, pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

“(2) RESTORATION COST-SHARE AGREEMENTS.—In making cost-share payments in connection with a restoration cost-share agreement entered into under section 1237A(h), the Secretary shall pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

“(3) TECHNICAL ASSISTANCE.—The Secretary shall provide owners with technical assistance to assist owners in complying with the terms of easements and restoration cost-share agreements.”.

(f) EFFECT ON EXISTING AGREEMENTS.—The amendments made by this section shall not affect the validity or terms of any agreements entered into by the Secretary of Agriculture under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.) before the date of enactment of this Act or any payments required to be made in connection with the agreements.

#### SEC. 334. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by adding at the end the following:

Effective date.

16 USC 3837  
note.

**“CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES  
PROGRAM**

**“SEC. 1240. PURPOSES.**

16 USC 3839aa.

“The purposes of the environmental quality incentives program established by this chapter are to—

“(1) combine into a single program the functions of—

“(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 336(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996);

“(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 336(b)(1) of the Federal Agriculture Improvement and Reform Act of 1996);

“(C) the water quality incentives program established under chapter 2 (as in effect before the amendment made by section 336(h) of the Federal Agriculture Improvement and Reform Act of 1996); and

“(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 336(c)(1) of the Federal Agriculture Improvement and Reform Act of 1996); and

“(2) carry out the single program in a manner that maximizes environmental benefits per dollar expended, and that provides—

“(A) flexible technical and financial assistance to farmers and ranchers that face the most serious threats to soil, water, and related natural resources, including grazing lands, wetlands, and wildlife habitat;

“(B) assistance to farmers and ranchers in complying with this title and Federal and State environmental laws, and encourages environmental enhancement;

“(C) assistance to farmers and ranchers in making 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; and

“(D) for the consolidation and simplification of the conservation planning process to reduce administrative burdens on producers.

**“SEC. 1240A. DEFINITIONS.**16 USC  
3839aa-1.

“In this chapter:

“(1) **ELIGIBLE LAND.**—The term ‘eligible land’ means agricultural land (including cropland, rangeland, pasture, and other land on which crops or livestock are produced), including agricultural land that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

“(2) **LAND MANAGEMENT PRACTICE.**—The term ‘land management practice’ means a site-specific nutrient or manure

management, integrated pest management, irrigation management, tillage or residue management, grazing management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation.

“(3) LIVESTOCK.—The term ‘livestock’ means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and such other animals as determined by the Secretary.

“(4) PRODUCER.—The term ‘producer’ means a person who is engaged in livestock or agricultural production (as defined by the Secretary).

“(5) STRUCTURAL PRACTICE.—The term ‘structural practice’ means—

“(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, permanent wildlife habitat, or other structural practice that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation; and

“(B) the capping of abandoned wells on eligible land.

16 USC  
3839aa-2.

**“SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-share payments, incentive payments, and education to producers, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

“(2) ELIGIBLE PRACTICES.—

“(A) STRUCTURAL PRACTICES.—A producer who implements a structural practice shall be eligible for any combination of technical assistance, cost-share payments, and education.

“(B) LAND MANAGEMENT PRACTICES.—A producer who performs a land management practice shall be eligible for any combination of technical assistance, incentive payments, and education.

“(b) APPLICATION AND TERM.—A contract between a producer and the Secretary under this chapter may—

“(1) apply to 1 or more structural practices or 1 or more land management practices, or both; and

“(2) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

“(c) STRUCTURAL PRACTICES.—

“(1) OFFER SELECTION PROCESS.—The Secretary shall, to the maximum extent practicable, establish a process for selecting applications for financial assistance if there are numerous applications for assistance for structural practices that would provide substantially the same level of environmental benefits. The process shall be based on—

“(A) a reasonable estimate of the projected cost of the proposals and other factors identified by the Secretary

“(5) to supply information as required by the Secretary to determine compliance with the environmental quality incentives program plan and requirements of the program; and

“(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the environmental quality incentives program plan.

**“SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.**

16 USC  
3839aa-5.

“(a) **IN GENERAL.**—To be eligible to enter into a contract under the environmental quality incentives program, an owner or producer of a livestock or agricultural operation must submit to the Secretary for approval a plan of operations that incorporates such conservation practices, and is based on such principles, as the Secretary considers necessary to carry out the program, including a description of structural practices and land management practices to be implemented and the objectives to be met by the plan’s implementation.

“(b) **AVOIDANCE OF DUPLICATION.**—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the environmental quality incentives program and comparable conservation programs.

**“SEC. 1240F. DUTIES OF THE SECRETARY.**

16 USC  
3839aa-6.

“To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of an environmental quality incentives program plan by—

“(1) providing an eligibility assessment of the farming or ranching operation of the producer as a basis for developing the plan;

“(2) providing technical assistance in developing and implementing the plan;

“(3) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more structural practices or 1 or more land management practices, as appropriate;

“(4) providing the producer with information, education, and training to aid in implementation of the plan; and

“(5) encouraging the producer to obtain technical assistance, cost-share payments, or grants from other Federal, State, local, or private sources.

**“SEC. 1240G. LIMITATION ON PAYMENTS.**

16 USC  
3839aa-7.

“(a) **IN GENERAL.**—The total amount of cost-share and incentive payments paid to a producer under this chapter may not exceed—

“(1) \$10,000 for any fiscal year; or

“(2) \$50,000 for any multiyear contract.

“(b) **EXCEPTION TO ANNUAL LIMIT.**—The Secretary may exceed the limitation on the annual amount of a payment under subsection (a)(1) on a case-by-case basis if the Secretary determines that a larger payment is—

“(1) essential to accomplish the land management practice or structural practice for which the payment is made; and

“(2) consistent with the maximization of environmental benefits per dollar expended and the purposes of this chapter specified in section 1240.

“(c) **TIMING OF EXPENDITURES.**—Expenditures under a contract entered into under this chapter during a fiscal year may not be made by the Secretary until the subsequent fiscal year.

16 USC  
3839aa-8.**“SEC. 1240H. TEMPORARY ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.****“(a) INTERIM ADMINISTRATION.—**

**“(1) IN GENERAL.—**During the period beginning on the date of enactment of this section and ending on the termination date provided under paragraph (2), to ensure that technical assistance, cost-share payments, and incentive payments continue to be administered in an orderly manner until such time as assistance can be provided through final regulations issued to implement the environmental quality incentives program established under this chapter, the Secretary shall continue to—

**“(A) provide technical assistance, cost-share payments, and incentive payments under the terms and conditions of the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program, to the extent the terms and conditions of the program are consistent with the environmental quality incentives program; and**

**“(B) use for those purposes—**

**“(i) any funds remaining available for the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program; and**

**“(ii) as the Secretary determines to be necessary, any funds authorized to be used to carry out the environmental quality incentives program.**

**“(2) TERMINATION OF AUTHORITY.—**The authority of the Secretary to carry out paragraph (1) shall terminate on the date that is 180 days after the date of enactment of this section.

Effective date.

**“(b) PERMANENT ADMINISTRATION.—**Effective beginning on the termination date provided under subsection (a)(2), the Secretary shall provide technical assistance, cost-share payments, and incentive payments for structural practices and land management practices related to crop and livestock production in accordance with final regulations issued to carry out the environmental quality incentives program.”

**SEC. 335. CONSERVATION FARM OPTION.**

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) (as amended by section 334) is amended by adding at the end the following:

**“CHAPTER 5—CONSERVATION FARM OPTION**

16 USC 3839bb.

**“SEC. 1240M. CONSERVATION FARM OPTION.**

**“(a) IN GENERAL.—**The Secretary shall establish conservation farm option pilot programs for producers of wheat, feed grains, cotton, and rice.

**“(b) ELIGIBLE OWNERS AND PRODUCERS.—**An owner or producer with a farm that has contract acreage enrolled in the agricultural market transition program established under the Agricultural Market Transition Act shall be eligible to participate in the conservation farm option offered under a pilot program under subsection (a)

if the owner or producer meets the conditions established under section (e).

“(c) PURPOSES.—The purposes of the conservation farm option pilot programs shall include—

- “(1) conservation of soil, water, and related resources;
- “(2) water quality protection or improvement;
- “(3) wetland restoration, protection, and creation;
- “(4) wildlife habitat development and protection; or
- “(5) other similar conservation purposes.

“(d) CONSERVATION FARM PLAN.—

“(1) IN GENERAL.—To be eligible to enter into a conservation farm option contract, an owner or producer must prepare and submit to the Secretary, for approval, a conservation farm plan that shall become a part of the conservation farm option contract.

“(2) REQUIREMENTS.—A conservation farm plan shall—

“(A) describe the resource-conserving crop rotations, and all other conservation practices, to be implemented and maintained on the acreage that is subject to contract during the contract period;

“(B) contain a schedule for the implementation and maintenance of the practices described in the conservation farm plan;

“(C) comply with highly erodible land and wetland conservation requirements of this title; and

“(D) contain such other terms as the Secretary may require.

“(e) CONTRACTS.—

“(1) IN GENERAL.—On approval of a conservation farm plan, the Secretary may enter into a contract with the owner or producer that specifies the acres being enrolled and the practices being adopted.

“(2) DURATION OF CONTRACT.—The contract shall be for a period of 10 years. The contract may be renewed for a period of not to exceed 5 years on mutual agreement of the Secretary and the owner or producer.

“(3) CONSIDERATION.—In exchange for payments under this subsection, the owner or producer shall not participate in and shall forgo payments under—

“(A) the conservation reserve program established under subchapter B of chapter 1;

“(B) the wetlands reserve program established under subchapter C of chapter 1; and

“(C) the environmental quality incentives program established under chapter 4.

“(4) OWNER OR PRODUCER RESPONSIBILITIES UNDER THE AGREEMENT.—Under the terms of the contract entered into under this section, an owner or producer shall agree to—

“(A) actively comply with the terms and conditions of the approved conservation farm plan;

“(B) keep such records as the Secretary may reasonably require for purposes of evaluation of the implementation of the conservation farm plan; and

“(C) not engage in any activity that would defeat the purposes of the conservation farm option pilot program.

“(5) PAYMENTS.—The Secretary shall offer an owner or producer annual payments under the contract that are equiva-

Records.

lent to the payments the owner or producer would have received under the conservation reserve program, the wetlands reserve program, and the environmental quality incentives program.

“(6) BALANCE OF BENEFITS.—The Secretary shall not permit an owner or producer to terminate a conservation reserve program contract and enter a conservation farm option contract if the Secretary determines that such action will reduce net environmental benefits.

“(f) SECRETARIAL DETERMINATIONS.—

“(1) ACREAGE ESTIMATES.—Prior to each year during which the Secretary intends to offer conservation reserve program contracts, the Secretary shall estimate the number of acres that—

“(A) will be retired under the conservation farm option under the terms and conditions the Secretary intends to offer for that program; and

“(B) would be retired under the conservation reserve program if the conservation farm option were not available.

“(2) TOTAL LAND RETIREMENT.—The Secretary shall announce a number of acres to be enrolled in the conservation reserve program that will result in a total number of acres retired under the conservation reserve program and the conservation farm option that does not exceed the amount estimated under paragraph (1)(B) for the current or future years.

“(3) LIMITATION.—The Secretary shall not enroll additional conservation reserve program contracts to offset the land retired under the conservation farm option.

“(g) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, authorities, and facilities of the Commodity Credit Corporation to carry out this subsection.

“(h) FUNDING.—Of the funds of the Commodity Credit Corporation, the Corporation shall make available to carry out this section—

“(1) \$7,500,000 for fiscal year 1997;

“(2) \$15,000,000 for fiscal year 1998;

“(3) \$25,000,000 for fiscal year 1999;

“(4) \$37,500,000 for fiscal year 2000;

“(5) \$50,000,000 for fiscal year 2001; and

“(6) \$62,500,000 for fiscal year 2002.”

#### SEC. 336. REPEAL OF SUPERSEDED AUTHORITIES.

(a) AGRICULTURAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—

(A) Section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) is amended—

(i) in subsection (b)—

(I) by striking paragraphs (1) through (4) and inserting the following:

“(1) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—The Secretary shall provide technical assistance, cost-share payments, and incentive payments to operators through the environmental quality incentives program in accordance with chapter 4 of subtitle D of title XII of the Food Security Act of 1985.”; and

(II) by striking paragraphs (6) through (8); and

(ii) by striking subsections (d), (e), and (f).

(B) The first sentence of section 11 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590k) is amended by striking “performance: *Provided further*,” and all that follows through “or other law” and inserting “performance”.

(C) Section 14 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590n) is amended—

- (i) in the first sentence, by striking “or 8”; and
- (ii) by striking the second sentence.

(D) Section 15 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590o) is amended—

- (i) in the first undesignated paragraph—
  - (I) in the first sentence, by striking “sections 7 and 8” and inserting “section 7”; and
  - (II) by striking the third sentence; and
- (ii) by striking the second undesignated paragraph.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of the last proviso of the matter under the heading “CONSERVATION RESERVE PROGRAM” under the heading “SOIL BANK PROGRAMS” of title I of the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959 (72 Stat. 195; 7 U.S.C. 1831a), is amended by striking “Agricultural Conservation Program” and inserting “environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985”.

(B) Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended by striking “as added by the Agriculture and Consumer Protection Act of 1973” each place it appears in subsections (d) and (i) and inserting “as in effect before the amendment made by section 336(d)(1) of the Federal Agriculture Improvement and Reform Act of 1996”.

(C) Section 226(b)(4) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(b)(4)) is amended by striking “and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)”.

(D) Section 246(b)(8) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(8)) is amended by striking “and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)”.

(E) Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(C)) is amended by striking “Agricultural Conservation Program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590i, or 590p)” and inserting “environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985”.

(F) Section 304(a) of the Lake Champlain Special Designation Act of 1990 (Public Law 101-596; 33 U.S.C. 1270 note) is amended—

- (i) in the subsection heading, by striking “SPECIAL PROJECT AREA UNDER THE AGRICULTURAL CONSERVATION PROGRAM” and inserting “PRIORITY AREA UNDER

THE ENVIRONMENTAL QUALITY INCENTIVES PROGRAM"; and

(ii) in paragraph (1), by striking "special project area under the Agricultural Conservation Program established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))" and inserting "priority area under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(G) Section 6 of the Department of Agriculture Organic Act of 1956 (70 Stat. 1033) is amended by striking subsection (b).

(b) GREAT PLAINS CONSERVATION PROGRAM.—

(1) ELIMINATION.—Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) The Agricultural Adjustment Act of 1938 is amended by striking "Great Plains program" each place it appears in sections 344(f)(8) and 377 (7 U.S.C. 1344(f)(8) and 1377) and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(B) Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended by striking paragraph (2).

(c) COLORADO RIVER BASIN SALINITY CONTROL PROGRAM.—

(1) IN GENERAL.—Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended by striking subsection (c) and inserting the following:

"(c) SALINITY CONTROL MEASURES.—The Secretary of Agriculture shall carry out salinity control measures (including watershed enhancement and cost-share measures with livestock and crop producers) in the Colorado River Basin as part of the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985."

(2) FUNDS.—Section 205 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595) is amended—

(A) in subsection (a), by striking "pursuant to section 202(c)(2)(C)"; and

(B) by adding at the end the following:

"(f) FUNDS.—The Secretary may expend funds available in the Basin Funds referred to in this section to carry out cost-share salinity measures in a manner that is consistent with the cost allocations required under this section."

(3) CONFORMING AMENDMENT.—Section 246(b)(6) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(6)) is amended by striking "program" and inserting "measures".

(d) RURAL ENVIRONMENTAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—Title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.) is repealed.

(2) CONFORMING AMENDMENTS.—Section 246 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962) (as amended by subsection (b)(2)(B)) is amended—

(A) in subsection (b)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (3) through (8) as paragraphs (1) through (6), respectively; and

(B) in subsection (c), by striking “(2), (3), (4), and (6)” and inserting “(1), (2), and (4)”.

(e) OTHER CONSERVATION PROVISIONS.—Subtitle F of title XII of the Food Security Act of 1985 (16 U.S.C. 2005a and 2101 note) is repealed.

(f) RESOURCE CONSERVATION.—

(1) ELIMINATION.—Subtitles A, B, D, E, and F of title XV of the Agriculture and Food Act of 1981 (95 Stat. 1328; 16 U.S.C. 3401 et seq.) are repealed.

(2) CONFORMING AMENDMENT.—Section 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992 (7 U.S.C. 2272a), is repealed.

(g) TECHNICAL AMENDMENT.—The first sentence of the matter under the heading “COMMODITY CREDIT CORPORATION” of Public Law 99-263 (100 Stat. 59; 16 U.S.C. 3841 note) is amended by striking “prices: *Provided further,*” and all that follows through “Acts.” and inserting “prices.”

(h) AGRICULTURAL WATER QUALITY INCENTIVES PROGRAM.—Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is repealed.

## **Subtitle E—Conservation Funding and Administration**

### **SEC. 341. CONSERVATION FUNDING AND ADMINISTRATION.**

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

### **“Subtitle E—Funding and Administration**

#### **“SEC. 1241. FUNDING.**

16 USC 3841.

“(a) MANDATORY EXPENSES.—For each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the programs authorized by—

“(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 16 U.S.C. 3831 note));

“(2) subchapter C of chapter 1 of subtitle D; and

“(3) chapter 4 of subtitle D.

“(b) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—

“(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available \$130,000,000 for fiscal year 1996, and \$200,000,000 for each of fiscal years 1997 through 2002, for providing technical assistance, cost-share payments, incentive payments, and education under the environmental quality incentives program under chapter 4 of subtitle D.

“(2) LIVESTOCK PRODUCTION.—For each of fiscal years 1996 through 2002, 50 percent of the funding available for technical assistance, cost-share payments, incentive payments, and edu-

cation under the environmental quality incentives program shall be targeted at practices relating to livestock production.

16 USC 3842.

**“SEC. 1242. USE OF OTHER AGENCIES.**

“(a) COMMITTEES.—In carrying out subtitles B, C, and D, the Secretary shall use the services of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

“(b) OTHER AGENCIES.—

“(1) USE.—In carrying out subtitles C and D, the Secretary may utilize the services of the Natural Resources Conservation Service and the Forest Service, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h), soil and water conservation districts, and other appropriate agencies.

“(2) CONSULTATION.—In carrying out subtitle D at the State and county levels, the Secretary shall consult with, to the extent practicable, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, soil-conservation districts, and other appropriate agencies.

16 USC 3843.

**“SEC. 1243. ADMINISTRATION.**

“(a) PLANS.—The Secretary shall, to the extent practicable, avoid duplication in—

“(1) the conservation plans required for—

“(A) highly erodible land conservation under subtitle B;

“(B) the conservation reserve program established under subchapter B of chapter 1 of subtitle D; and

“(C) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D; and

“(2) the environmental quality incentives program established under chapter 4 of subtitle D.

“(b) ACREAGE LIMITATION.—

“(1) IN GENERAL.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under the conservation reserve and wetlands reserve programs established under subchapters B and C, respectively, of chapter 1 of subtitle D. Not more than 10 percent of the cropland in a county may be subject to an easement acquired under the subchapters.

“(2) EXCEPTION.—The Secretary may exceed the limitations in paragraph (1) if the Secretary determines that—

“(A) the action would not adversely affect the local economy of a county; and

“(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

“(3) SHELTERBELTS AND WINDBREAKS.—The limitations established under this subsection shall not apply to cropland that is subject to an easement under chapter 1 or 3 of subtitle D that is used for the establishment of shelterbelts and windbreaks.

“(c) TENANT PROTECTION.—Except for a person who is a tenant on land that is subject to a conservation reserve contract that has been extended by the Secretary, the Secretary shall provide

adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the programs established under subtitles B through D.

“(d) **PROVISION OF TECHNICAL ASSISTANCE BY OTHER SOURCES.**—In the preparation and application of a conservation compliance plan under subtitle B or similar plan required as a condition for assistance from the Department of Agriculture, the Secretary shall permit persons to secure technical assistance from approved sources, as determined by the Secretary, other than the Natural Resources Conservation Service. If the Secretary rejects a technical determination made by such a source, the basis of the Secretary’s determination must be supported by documented evidence.

“(e) **REGULATIONS.**—Not later than 90 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue regulations to implement the conservation reserve and wetlands reserve programs established under chapter 1 of subtitle D.”

**SEC. 342. STATE TECHNICAL COMMITTEES.**

(a) **COMPOSITION.**—Section 1261(c) of the Food Security Act of 1985 (16 U.S.C. 3861(c))—

(1) in paragraph (7), by striking “and” at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(9) agricultural producers with demonstrable conservation expertise;

“(10) nonprofit organizations with demonstrable conservation expertise;

“(11) persons knowledgeable about conservation techniques; and

“(12) agribusiness.”

(b) **RESPONSIBILITIES.**—Section 1262 of the Food Security Act of 1985 (16 U.S.C. 3862) is amended—

(1) in subsection (a), by adding at the end the following: “Each State technical committee shall provide public notice of, and permit public attendance at meetings considering, issues of concern related to carrying out this title.”;

(2) in subsection (b)(1), by adding at the end the following: “Each State technical committee shall establish criteria and guidelines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides.”; and

(3) in subsection (c)—

(A) in paragraph (7), by striking “and” at the end;

(B) by redesignating paragraph (8) as paragraph (9);

and

(C) by inserting after paragraph (7) the following:

“(8) establishing criteria and priorities for State initiatives under the environmental quality incentives program under chapter 4 of subtitle D; and”.

**SEC. 343. PUBLIC NOTICE AND COMMENT FOR REVISIONS TO CERTAIN STATE TECHNICAL GUIDES.**

After the date of enactment of this Act, the Secretary of Agriculture shall provide for public notice and comment under section

16 USC 3862  
note.

553 of title 5, United States Code, with regard to any future revisions to those provisions of the Natural Resources Conservation Service State technical guides that are used to carry out subtitles A, B, and C of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

National Natural  
Resources  
Conservation  
Foundation Act.

## Subtitle F—National Natural Resources Conservation Foundation

16 USC 5801  
note.

### SEC. 351. SHORT TITLE.

This subtitle may be cited as the “National Natural Resources Conservation Foundation Act”.

16 USC 5801.

### SEC. 352. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) **BOARD.**—The term “Board” means the Board of Trustees established under section 354.

(2) **DEPARTMENT.**—The term “Department” means the Department of Agriculture.

(3) **FOUNDATION.**—The term “Foundation” means the National Natural Resources Conservation Foundation established by section 353(a).

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

16 USC 5802.

### SEC. 353. NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION.

(a) **ESTABLISHMENT.**—A National Natural Resources Conservation Foundation is established as a charitable and nonprofit corporation for charitable, scientific, and educational purposes specified in subsection (b). The Foundation is not an agency or instrumentality of the United States.

(b) **DUTIES.**—The Foundation shall—

(1) promote innovative solutions to the problems associated with the conservation of natural resources on private lands, particularly with respect to agriculture and soil and water conservation;

(2) promote voluntary partnerships between government and private interests in the conservation of natural resources;

(3) conduct research and undertake educational activities, conduct and support demonstration projects, and make grants to State and local agencies and nonprofit organizations;

(4) provide such other leadership and support as may be necessary to address conservation challenges, such as the prevention of excessive soil erosion, the enhancement of soil and water quality, and the protection of wetlands, wildlife habitat, and strategically important farmland subject to urban conversion and fragmentation;

(5) encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the conservation and related activities and services of the Department, particularly the Natural Resources Conservation Service;

(6) undertake, conduct, and encourage educational, technical, and other assistance, and other activities, that support the conservation and related programs administered by the

shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(C) **QUALIFICATIONS.**—The Executive Director shall be knowledgeable and experienced in matters relating to natural resources conservation.

**SEC. 356. CORPORATE POWERS AND OBLIGATIONS OF THE FOUNDATION.** 16 USC 5805.

(a) **IN GENERAL.**—The Foundation—

(1) may conduct business throughout the United States and the territories and possessions of the United States; and

(2) shall at all times maintain a designated agent who is authorized to accept service of process for the Foundation, so that the serving of notice to, or service of process on, the agent, or mailed to the business address of the agent, shall be considered as service on or notice to the Foundation.

(b) **SEAL.**—The Foundation shall have an official seal selected by the Board that shall be judicially noticed.

(c) **POWERS.**—To carry out the purposes of the Foundation under section 353(b), the Foundation shall have, in addition to the powers otherwise provided under this subtitle, the usual powers of a corporation, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income from, or other interest in, the gift, devise, or bequest;

(2) to acquire by purchase or exchange any real or personal property or interest in property, except that funds provided under section 360 may not be used to purchase an interest in real property;

(3) unless otherwise required by instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property;

(4) to borrow money from private sources and issue bonds, debentures, or other debt instruments, subject to section 359, except that the aggregate amount of the borrowing and debt instruments outstanding at any time may not exceed \$1,000,000;

(5) to sue and be sued, and complain and defend itself, in any court of competent jurisdiction, except that a member of the Board shall not be personally liable for an action in the performance of services for the Board, except for gross negligence;

(6) to enter into a contract or other agreement with an agency of State or local government, educational institution, or other private organization or person and to make such payments as may be necessary to carry out the functions of the Foundation; and

(7) to do any and all acts that are necessary to carry out the purposes of the Foundation.

(d) **INTERESTS IN PROPERTY.**—

(1) **INTERESTS IN REAL PROPERTY.**—The Foundation may acquire, hold, and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange. An interest in real property shall be treated, among other things, as including an easement or other right for the preservation, conservation, protection, or enhancement of agricultural,

natural, scenic, historic, scientific, educational, inspirational, or recreational resources.

(2) GIFTS.—A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.

16 USC 5806. **SEC. 357. ADMINISTRATIVE SERVICES AND SUPPORT.**

For each of fiscal years 1996 through 1998, the Secretary may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

16 USC 5807. **SEC. 358. AUDITS AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.**

(a) AUDITS.—

(1) IN GENERAL.—The accounts of the Foundation shall be audited in accordance with Public Law 88-504 (36 U.S.C. 1101 et seq.), including an audit of lobbying and litigation activities carried out by the Foundation.

(2) CONFORMING AMENDMENT.—The first section of Public Law 88-504 (36 U.S.C. 1101) is amended by adding at the end the following:

“(77) The National Natural Resources Conservation Foundation.”

(b) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—The Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate, if the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with this subtitle; or

(2) refuses, fails, neglects, or threatens to refuse, fail, or neglect, to discharge the obligations of the Foundation under this subtitle.

16 USC 5808. **SEC. 359. RELEASE FROM LIABILITY.**

(a) IN GENERAL.—The United States shall not be liable for any debt, default, act, or omission of the Foundation. The full faith and credit of the United States shall not extend to the Foundation.

(b) STATEMENT.—An obligation issued by the Foundation, and a document offering an obligation, shall include a prominent statement that the obligation is not directly or indirectly guaranteed, in whole or in part, by the United States (or an agency or instrumentality of the United States).

16 USC 5809. **SEC. 360. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Department to be made available to the Foundation \$1,000,000 for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation.

## Subtitle G—Forestry

### SEC. 371. OFFICE OF INTERNATIONAL FORESTRY.

Section 2405 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6704) is amended by adding at the end the following:

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1996 through 2002 such sums as are necessary to carry out this section.”

### SEC. 372. COOPERATIVE WORK FOR PROTECTION, MANAGEMENT, AND IMPROVEMENT OF NATIONAL FOREST SYSTEM.

The penultimate paragraph of the matter under the heading “FOREST SERVICE.” of the first section of the Act of June 30, 1914 (38 Stat. 430, chapter 131; 16 U.S.C. 498), is amended—

(1) by inserting “, management,” after “the protection”;

(2) by striking “national forests,” and inserting “National Forest System,”;

(3) by inserting “management,” after “protection,” both places it appears; and

(4) by adding at the end the following: “Payment for work undertaken pursuant to this paragraph may be made from any appropriation of the Forest Service that is available for similar work if a written agreement so provides and reimbursement will be provided by a cooperator in the same fiscal year as the expenditure by the Forest Service. A reimbursement received from a cooperator that covers the proportionate share of the cooperator of the cost of the work shall be deposited to the credit of the appropriation of the Forest Service from which the payment was initially made or, if the appropriation is no longer available, to the credit of an appropriation of the Forest Service that is available for similar work. The Secretary of Agriculture shall establish written rules that establish criteria to be used to determine whether the acceptance of contributions of money under this paragraph would adversely affect the ability of an officer or employee of the Department of Agriculture to carry out a duty or program of the officer or employee in a fair and objective manner or would compromise, or appear to compromise, the integrity of the program, officer, or employee. The Secretary of Agriculture shall establish written rules that protect the interests of the Forest Service in cooperative work agreements.”

Rules.

Rules.

### SEC. 373. FORESTRY INCENTIVES PROGRAM.

Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended—

(1) in subsection (j), by striking “annually” and inserting “for each of fiscal years 1996 through 2002”; and

(2) by striking subsection (k).

### SEC. 374. OPTIONAL STATE GRANTS FOR FOREST LEGACY PROGRAM.

Section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following:

“(l) OPTIONAL STATE GRANTS.—

“(1) IN GENERAL.—The Secretary shall, at the request of a participating State, provide a grant to the State to carry out the Forest Legacy Program in the State.

“(2) ADMINISTRATION.—If a State elects to receive a grant under this subsection—

“(A) the Secretary shall use a portion of the funds made available under subsection (m), as determined by the Secretary, to provide a grant to the State; and

“(B) the State shall use the grant to carry out the Forest Legacy Program in the State, including the acquisition by the State of lands and interests in lands.”

## Subtitle H—Miscellaneous Conservation Provisions

### SEC. 381. CONSERVATION ACTIVITIES OF COMMODITY CREDIT CORPORATION.

(a) IN GENERAL.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended—

- (1) by redesignating subsection (g) as subsection (h); and
- (2) by inserting after subsection (f) the following:

“(g) Carry out conservation or environmental programs authorized by law.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1997.

15 USC 714c  
note.

### SEC. 382. FLOODPLAIN EASEMENTS.

Section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) is amended by inserting “, including the purchase of floodplain easements,” after “emergency measures”.

### SEC. 383. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

Section 1538 of the Agriculture and Food Act of 1981 (16 U.S.C. 3461) is amended by striking “1991 through 1995” and inserting “1996 through 2002”.

### SEC. 384. REPEAL OF REPORT REQUIREMENT.

Section 1342 of title 44, United States Code, is repealed.

7 USC 7334.

### SEC. 385. FLOOD RISK REDUCTION.

(a) IN GENERAL.—During fiscal years 1996 through 2002, the Secretary of Agriculture (referred to in this section as the “Secretary”) may enter into a contract with a producer on a farm who has contract acreage under the Agricultural Market Transition Act that is frequently flooded.

(b) DUTIES OF PRODUCERS.—Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to—

- (1) the termination of any contract acreage and production flexibility contract under the Agricultural Market Transition Act;
- (2) forgo loans for contract commodities, oilseeds, and extra long staple cotton;
- (3) not apply for crop insurance issued or reinsured by the Secretary;
- (4) comply with applicable highly erodible land and wetlands conservation compliance requirements established under

title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(5) not apply for any conservation program payments from the Secretary;

(6) not apply for disaster program benefits provided by the Secretary; and

(7) refund the payments, with interest, issued under the flood risk reduction contract to the Secretary, if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract.

(c) DUTIES OF THE SECRETARY.—In return for a contract entered into by a producer under this section, the Secretary shall pay the producer an amount that is not more than 95 percent of projected contract payments under the Agricultural Market Transition Act that the Secretary estimates the producer would otherwise have received during the period beginning at the time the contract is entered into under this section and ending September 30, 2002.

(d) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section (other than subsection (e)) through the Commodity Credit Corporation.

(e) ADDITIONAL PAYMENTS.—

(1) IN GENERAL.—Subject to the availability of advanced appropriations, the Secretary may make payments to a producer described in subsection (a), in addition to the payments provided under subsection (c), to offset other estimated Federal Government outlays on frequently flooded land.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).

(f) LIMITATION ON PAYMENTS.—Amounts made available for production flexibility contracts under section 113 shall be reduced by an amount that is equal to the contract payments that producers forgo under subsection (b)(1) of this section.

#### SEC. 386. CONSERVATION OF PRIVATE GRAZING LAND.

16 USC 2005b.

(a) FINDINGS.—Congress finds that—

(1) private grazing land constitutes nearly ½ of the non-Federal land of the United States and is basic to the environmental, social, and economic stability of rural communities;

(2) private grazing land contains a complex set of interactions among soil, water, air, plants, and animals;

(3) grazing land constitutes the single largest watershed cover type in the United States and contributes significantly to the quality and quantity of water available for all of the many uses of the land;

(4) private grazing land constitutes the most extensive wildlife habitat in the United States;

(5) private grazing land can provide opportunities for improved nutrient management from land application of animal manures and other by-product nutrient resources;

(6) owners and managers of private grazing land need to continue to recognize conservation problems when the problems arise and receive sound technical assistance to improve or conserve grazing land resources to meet ecological and economic demands;

(7) new science and technology must continually be made available in a practical manner so owners and managers of

private grazing land may make informed decisions concerning vital grazing land resources;

(8) agencies of the Department with private grazing land responsibilities are the agencies that have the expertise and experience to provide technical assistance, education, and research to owners and managers of private grazing land for the long-term productivity and ecological health of grazing land;

(9) although competing demands on private grazing land resources are greater than ever before, assistance to private owners and managers of private grazing land is currently limited and does not meet the demand and basic need for adequately sustaining or enhancing the private grazing land resources; and

(10) private grazing land can be enhanced to provide many benefits to all citizens of the United States through voluntary cooperation among owners and managers of the land, local conservation districts, and the agencies of the Department responsible for providing assistance to owners and managers of land and to conservation districts.

(b) PURPOSE.—It is the purpose of this section to authorize the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources and provide related benefits to all citizens of the United States by—

(1) establishing a coordinated and cooperative Federal, State, and local grazing conservation program for management of private grazing land;

(2) strengthening technical, educational, and related assistance programs that provide assistance to owners and managers of private grazing land;

(3) conserving and improving wildlife habitat on private grazing land;

(4) conserving and improving fish habitat and aquatic systems through grazing land conservation treatment;

(5) protecting and improving water quality;

(6) improving the dependability and consistency of water supplies;

(7) identifying and managing weed, noxious weed, and brush encroachment problems on private grazing land; and

(8) integrating conservation planning and management decisions by owners and managers of private grazing land, on a voluntary basis.

(c) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term “Department” means the Department of Agriculture.

(2) PRIVATE GRAZING LAND.—The term “private grazing land” means private, State-owned, tribally-owned, and any other non-federally owned rangeland, pastureland, grazed forest land, and hay land.

(3) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(d) PRIVATE GRAZING LAND CONSERVATION ASSISTANCE.—

(1) ASSISTANCE TO GRAZING LANDOWNERS AND OTHERS.—Subject to the availability of appropriations for this section, the Secretary shall establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through

local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities that are consistent with this section, including—

(A) maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land;

(B) implementing grazing land management technologies;

(C) managing resources on private grazing land, including—

(i) planning, managing, and treating private grazing land resources;

(ii) ensuring the long-term sustainability of private grazing land resources;

(iii) harvesting, processing, and marketing private grazing land resources; and

(iv) identifying and managing weed, noxious weed, and brush encroachment problems;

(D) protecting and improving the quality and quantity of water yields from private grazing land;

(E) maintaining and improving wildlife and fish habitat on private grazing land;

(F) enhancing recreational opportunities on private grazing land;

(G) maintaining and improving the aesthetic character of private grazing lands; and

(H) identifying the opportunities and encouraging the diversification of private grazing land enterprises.

(2) PROGRAM ELEMENTS.—

(A) FUNDING.—If funding is provided to carry out this section, it shall be provided through a specific line-item in the annual appropriations for the Natural Resources Conservation Service.

(B) TECHNICAL ASSISTANCE AND EDUCATION.—Personnel of the Department trained in pasture and range management shall be made available under the program to deliver and coordinate technical assistance and education to owners and managers of private grazing land, at the request of the owners and managers.

(e) GRAZING TECHNICAL ASSISTANCE SELF-HELP.—

(1) FINDINGS.—Congress finds that—

(A) there is a severe lack of technical assistance for farmers and ranchers who graze livestock;

(B) Federal budgetary constraints preclude any significant expansion, and may force a reduction of, current levels of technical support; and

(C) farmers and ranchers have a history of cooperatively working together to address common needs in the promotion of their products and in the drainage of wet areas through drainage districts.

(2) ESTABLISHMENT OF GRAZING DEMONSTRATION.—In accordance with paragraph (3), the Secretary may establish 2 grazing management demonstration districts at the recommendation of the grazing lands conservation initiative steering committee.

(3) PROCEDURE.—

(A) PROPOSAL.—Within a reasonable time after the submission of a request of an organization of farmers or ranchers engaged in grazing, the Secretary shall propose that a grazing management district be established.

(B) FUNDING.—The terms and conditions of the funding and operation of the grazing management district shall be proposed by the producers.

(C) APPROVAL.—The Secretary shall approve the proposal if the Secretary determines that the proposal—

(i) is reasonable;

(ii) will promote sound grazing practices; and

(iii) contains provisions similar to the provisions contained in the beef promotion and research order issued under section 4 of the Beef Research and Information Act (7 U.S.C. 2903) in effect on the date of enactment of this Act.

(D) AREA INCLUDED.—The area proposed to be included in a grazing management district shall be determined by the Secretary on the basis of a petition by farmers or ranchers.

(E) AUTHORIZATION.—The Secretary may use authority under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to operate, on a demonstration basis, a grazing management district.

(F) ACTIVITIES.—The activities of a grazing management district shall be scientifically sound activities, as determined by the Secretary in consultation with a technical advisory committee composed of ranchers, farmers, and technical experts.

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

(1) \$20,000,000 for fiscal year 1996;

(2) \$40,000,000 for fiscal year 1997; and

(3) \$60,000,000 for fiscal year 1998 and each subsequent fiscal year.

Establishment.  
16 USC 3836a.

**SEC. 387. WILDLIFE HABITAT INCENTIVES PROGRAM.**

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the State technical committees established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), shall establish a program under the Natural Resources Conservation Service to be known as the “Wildlife Habitat Incentive Program”.

(b) COST-SHARE PAYMENTS.—Under the program, the Secretary shall make cost-share payments to landowners to develop upland wildlife, wetland wildlife, threatened and endangered species, fish, and other types of wildlife habitat approved by the Secretary.

(c) FUNDING.—To carry out this section, a total of \$50,000,000 shall be made available for fiscal years 1996 through 2002 from funds made available to carry out subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

Establishment.  
16 USC 3830  
note.

**SEC. 388. FARMLAND PROTECTION PROGRAM.**

(a) IN GENERAL.—The Secretary of Agriculture shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in not less than 170,000, nor more than 340,000, acres of land

with prime, unique, or other productive soil that is subject to a pending offer from a State or local government for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

(b) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased under this section shall be subject to the requirements of a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

(c) FUNDING.—The Secretary shall use not more than \$35,000,000 of the funds of the Commodity Credit Corporation to carry out this section.

**SEC. 389. INTERIM MORATORIUM ON BYPASS FLOWS.**

(a) MORATORIUM.—There shall be an 18-month moratorium on any Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use authorization permit.

(b) LIMITATIONS.—Subsection (a) shall not affect—

(1) obligations or authority of the Secretary of Agriculture to protect public health and safety; and

(2) obligations or authority under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or applicable State law.

(c) RULES OF CONSTRUCTION.—

(1) EXISTING NON-FEDERAL WATER RIGHTS.—Nothing in this section prevents or inhibits the exercise of the use and operation of existing non-Federal water rights on or above the National Forest land that require land use authorization permits from the Forest Service to access water supply facilities.

(2) RENEWAL OR REISSUANCE OF EXPIRING LAND USE AUTHORIZATION FOR DECREED WATER RIGHTS.—Nothing in this section prevents or inhibits the renewal or reissuance of expiring land use authorizations for decreed water rights. The Forest Service may extend, as needed, any expiring land use authorization for such time as is necessary to incorporate the results of the study authorized by subsection (d).

(d) STUDY OF WATER RIGHTS ACROSS FEDERAL LANDS.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, there shall be established a Water Rights Task Force to study the subjects described in paragraph (3).

(2) MEMBERSHIP.—The Task Force shall be composed of 7 members appointed as follows:

(A) 1 member shall be appointed by the Secretary of Agriculture.

(B) 2 members shall be appointed by the Speaker of the House of Representatives and 1 member shall be appointed by the Minority Leader of the House of Representatives.

(C) 2 members shall be appointed by the Majority Leader of the Senate and 1 member shall be appointed by the Minority Leader of the Senate.

(3) SUBJECTS TO BE STUDIED.—The Task Force shall study and make recommendations on—

(A) whether Federal water rights should be acquired for environmental protection on National Forest land;

National Forest  
Service.  
Water.  
16 USC 526 note.

(d) **DEADLINE.**—The Secretary shall use the funds made available under subsection (a) for restoration activities referred to in subsection (b)(3) not later than December 31, 1999.

(e) **REPORT TO CONGRESS.**—For each of calendar years 1996 through 1999, the Secretary shall submit an annual report to Congress describing all activities carried out under subsection (b)(3).

(f) **SEPARATE AND ADDITIONAL EVERGLADES RESTORATION ACCOUNT.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury a special account (to be known as the “Everglades Restoration Account”), which shall consist of such funds as may be deposited in the account under paragraph (2). The account shall be separate, and in addition to, funds deposited in the Treasury under subsection (a).

(2) **SOURCE OF FUNDS FOR ACCOUNT.**—

(A) **PROCEEDS FROM SURPLUS PROPERTY.**—

(i) **IN GENERAL.**—Subject to subparagraph (B), the Administrator shall deposit in the special account all funds received by the Administrator, on or after the date of enactment of this Act, from the disposal pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) of surplus real property located in the State of Florida.

(ii) **AVAILABILITY AND DISPOSITION OF FEDERAL LAND.**—

(I) **IDENTIFICATION.**—Any Federal real property located in the State of Florida (excluding lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes) shall be identified for disposal or exchange under this subsection and shall be presumed available for purposes of this subsection unless the head of the agency controlling the property determines that there is a compelling program need for any property identified by the Secretary.

(II) **AVAILABILITY.**—Property identified by the Secretary for which there is no demonstrated compelling program need shall, not later than 90 days after a request by the Secretary, be reported to the Administrator and shall be made available to the Administrator who shall consider the property to be surplus property for purposes of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(III) **PRIORITIZATION OF DISPOSITION.**—The Administrator may prioritize the disposition of property made available under this subparagraph to permit the property to be sold as quickly as practicable in a manner that is consistent with the best interests of the Federal Government.

(B) **LIMIT ON TOTAL AMOUNT OF DEPOSITS.**—The total amount of funds deposited in the special account under subparagraph (A) shall not exceed \$100,000,000.

(C) **EFFECT ON CLOSURE OF MILITARY INSTALLATIONS.**—Nothing in this section alters the disposition of any proceeds arising from the disposal of real property pursuant to a base closure law.

for disposal or exchange for the purpose of conducting restoration activities in the Everglades region.

(2) CONSERVATION LANDS.—No lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes shall be identified for disposal or exchange under this subsection.

(3) FLORIDA.—In carrying out this subsection, the Secretary shall, to the maximum extent practicable, determine which lands and mineral interests located within the State of Florida are suitable for disposal or exchange before making the determination for eligible lands or interests in other States.

(4) PUBLIC ACCESS.—In carrying out this subsection, the Secretary shall consider that in disposing of lands, the Secretary shall retain such interest in the lands as may be necessary to ensure that the general public is not precluded from reasonable access to the lands for purposes of fishing, hunting, or other recreational uses.

(5) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate describing the results of the investigation conducted under this subsection. The report shall describe the specific parcels identified under this subsection, establish the priorities for disposal or exchange among the parcels, and estimate the values of the parcels.

**SEC. 391. AGRICULTURAL AIR QUALITY RESEARCH OVERSIGHT.**

7 USC 5405.

(a) FINDINGS.—Congress finds that—

(1) various studies have alleged that agriculture is a source of PM-10 emissions;

(2) many of these studies have often been based on erroneous data;

(3) Federal research activities are currently being conducted by the Department of Agriculture to determine the true extent to which agricultural activities contribute to air pollution and to determine cost-effective ways in which the agricultural industry can reduce any pollution that exists; and

(4) any Federal policy recommendations that may be issued by any Federal agency to address air pollution problems related to agriculture or any other industrial activity should be based on sound scientific findings that are subject to adequate peer review and should take into account economic feasibility.

(b) PURPOSE.—The purpose of this section is to encourage the Secretary of Agriculture to continue to strengthen vital research efforts related to agricultural air quality.

(c) OVERSIGHT COORDINATION.—

(1) INTERGOVERNMENTAL COOPERATION.—The Secretary shall, to the maximum extent practicable with respect to the Department of Agriculture and other Federal departments and agencies, ensure intergovernmental cooperation in research activities related to agricultural air quality and avoid duplication of the activities.

(2) CORRECT DATA.—The Secretary shall, to the maximum extent practicable, ensure that the results of any research related to agricultural air quality conducted by Federal agencies

“(1) CARRIED-OVER FUNDS.—Not more than 20 percent of any commodity supplemental food program food funds carried over under this section shall be available for administrative expenses of the program.”

**SEC. 403. EMERGENCY FOOD ASSISTANCE PROGRAM.**

(a) REAUTHORIZATION.—The first sentence of section 204(a)(1) of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended by striking “1995” and inserting “2002”.

(b) PROGRAM TERMINATION.—Section 212 of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended by striking “1995” and inserting “2002”.

(c) REQUIRED PURCHASES OF COMMODITIES.—Section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking “1995” and inserting “2002”; and

(2) in subsection (e), by striking “1995” each place it appears and inserting “2002”.

**SEC. 404. SOUP KITCHEN AND FOOD BANK PROGRAM.**

Section 110 of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking “1995” and inserting “2002”; and

(2) in subsection (c)(2)—

(A) in the paragraph heading, by striking “1992 THROUGH 1995” and inserting “SUBSEQUENT”; and

(B) by striking “1995” each place it appears and inserting “2002”.

**SEC. 405. NATIONAL COMMODITY PROCESSING.**

The first sentence of section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking “1995” and inserting “2002”.

## **TITLE V—AGRICULTURAL PROMOTION**

### **Subtitle A—Commodity Promotion and Evaluation**

**SEC. 501. COMMODITY PROMOTION AND EVALUATION.**

7 USC 7401.

(a) COMMODITY PROMOTION LAW DEFINED.—In this section, the term “commodity promotion law” means a Federal law that provides for the establishment and operation of a promotion program regarding an agricultural commodity that includes a combination of promotion, research, industry information, or consumer information activities, is funded by mandatory assessments on producers or processors, and is designed to maintain or expand markets and uses for the commodity (as determined by the Secretary). The term includes—

(1) the marketing promotion provisions under section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937;

and increase the size of the market for that commodity, often by utilizing promotion methods and techniques that individual producers and processors typically are unable, or have no incentive, to employ.

(8) The commodity promotion laws establish promotion programs that operate as “self-help” mechanisms for producers and processors to fund generic promotions for covered commodities which, under the required supervision and oversight of the Secretary of Agriculture—

(A) further specific national governmental goals, as established by Congress; and

(B) produce nonideological and commercial communication the purpose of which is to further the governmental policy and objective of maintaining and expanding the markets for the covered commodities.

(9) While some commodity promotion laws grant a producer or processor the option of crediting individual advertising conducted by the producer or processor for all or a portion of the producer’s or processor’s marketing promotion assessments, all promotion programs established under the commodity promotion laws, both those programs that permit credit for individual advertising and those programs that do not contain such provisions, are very narrowly tailored to fulfill the congressional purposes of the commodity promotion laws without impairing or infringing the legal or constitutional rights of any individual producer or processor.

(10) These generic commodity promotion programs are of particular benefit to small producers who often lack the resources or market power to advertise on their own and who are otherwise often unable to benefit from the economies of scale available in promotion and advertising.

(11) Periodic independent evaluation of the effectiveness of these generic commodity promotion programs will assist Congress and the Secretary of Agriculture in ensuring that the objectives of the programs are met.

(c) **INDEPENDENT EVALUATION OF PROMOTION PROGRAM EFFECTIVENESS.**—Except as otherwise provided by law, each commodity board established under the supervision and oversight of the Secretary of Agriculture pursuant to a commodity promotion law shall, not less often than every 5 years, authorize and fund, from funds otherwise available to the board, an independent evaluation of the effectiveness of the generic commodity promotion programs and other programs conducted by the board pursuant to a commodity promotion law. The board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this subsection.

Public  
information.

(d) **ADMINISTRATIVE COSTS.**—The Secretary shall annually provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information on administrative expenses on programs established under commodity promotion laws.

Commodity  
Promotion,  
Research, and  
Information Act  
of 1996.

## **Subtitle B—Issuance of Orders for Promotion, Research, and Information Activities Regarding Agricultural Commodities**

7 USC 7401 note. **SEC. 511. SHORT TITLE.**

This subtitle may be cited as the “Commodity Promotion, Research, and Information Act of 1996”.

7 USC 7411. **SEC. 512. FINDINGS AND PURPOSE.**

(a) **FINDINGS.**—Congress finds the following:

(1) The production of agricultural commodities plays a significant role in the economy of the United States. Thousands of producers in the United States are involved in the production of agricultural commodities, and such commodities are consumed by millions of people throughout the United States and foreign countries.

(2) Agricultural commodities must be of high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply.

(3) The maintenance and expansion of existing markets and the development of new markets for agricultural commodities through generic commodity promotion, research, and information programs are vital to the welfare of persons engaged in the production, marketing, and consumption of such commodities, as well as to the general economy of the United States.

(4) Generic promotion, research, and information activities for agricultural commodities play a unique role in advancing the demand for such commodities, since such activities increase the total market for a product to the benefit of consumers and all producers. These generic activities complement branded advertising initiatives, which are aimed at increasing the market share of individual competitors, and are of particular benefit to small producers who lack the resources or market power to advertise on their own. These generic activities do not impede the branded advertising efforts of individual firms, but instead increase general market demand for an agricultural commodity using methods that individual companies do not have the incentive to employ.

(5) Generic promotion, research, and information activities for agricultural commodities, paid by the producers and others in the industry who reap the benefits of such activities, provide a unique opportunity for producers to inform consumers about a particular agricultural commodity.

(6) It is important to ensure that generic promotion, research, and information activities for agricultural commodities be carried out in an effective and coordinated manner designed to strengthen the position of the commodities in the marketplace and to maintain and expand their markets and uses. Independent evaluation of the effectiveness of the generic promotion activities of these programs will assist the Secretary of Agriculture and Congress in ensuring that these objectives are met.

(7) The cooperative development, financing, and implementation of a coordinated national program of research, promotion, and information regarding agricultural commodities are necessary to maintain and expand existing markets and to develop new markets for these commodities.

(8) Agricultural commodities move in interstate and foreign commerce, and agricultural commodities and their products that do not move in such channels of commerce directly burden or affect interstate commerce in agricultural commodities and their products.

(9) Commodity promotion programs have the ability to provide significant conservation benefits to producers and the public.

(b) **PURPOSE.**—The purpose of this subtitle is to authorize the establishment, through the exercise by the Secretary of Agriculture of the authority provided in this subtitle, of an orderly program for developing, financing, and carrying out an effective, continuous, and coordinated program of generic promotion, research, and information regarding agricultural commodities designed to—

(1) strengthen the position of agricultural commodity industries in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(3) develop new markets and uses for agricultural commodities; or

(4) assist producers in meeting their conservation objectives.

(c) **RULE OF CONSTRUCTION.**—Nothing in this subtitle provides for the control of production or otherwise limits the right of any person to produce, handle, or import an agricultural commodity.

**SEC. 513. DEFINITIONS.**

7 USC 7412.

In this subtitle (unless the context otherwise requires):

(1) **AGRICULTURAL COMMODITY.**—The term “agricultural commodity” means—

(A) agricultural, horticultural, viticultural, and dairy products;

(B) livestock and the products of livestock;

(C) the products of poultry and bee raising;

(D) the products of forestry;

(E) other commodities raised or produced on farms, as determined appropriate by the Secretary; and

(F) products processed or manufactured from products specified in the preceding subparagraphs, as determined appropriate by the Secretary.

(2) **BOARD.**—The term “board” means a board established under an order issued under section 514.

(3) **CONFLICT OF INTEREST.**—The term “conflict of interest” means a situation in which a member or employee of a board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, a board for anything of economic value.

(4) **DEPARTMENT.**—The term “Department” means the Department of Agriculture.

(5) **FIRST HANDLER.**—The term “first handler” means the first person who buys or takes possession of an agricultural commodity from a producer for marketing. If a producer mar-

kets the agricultural commodity directly to consumers, the producer shall be considered to be the first handler with respect to the agricultural commodity produced by the producer.

(6) **IMPORTER.**—The term “importer” means any person who imports an agricultural commodity from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person.

(7) **INFORMATION.**—The term “information” means information and programs that are designed to increase—

(A) efficiency in processing; and

(B) the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of agricultural commodities on a national or international basis.

(8) **MARKET.**—The term “market” means to sell or to otherwise dispose of an agricultural commodity in interstate, foreign, or intrastate commerce.

(9) **ORDER.**—The term “order” means an order issued by the Secretary under section 514 that provides for a program of generic promotion, research, and information regarding agricultural commodities designed to—

(A) strengthen the position of agricultural commodity industries in the marketplace;

(B) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(C) develop new markets and uses for agricultural commodities; or

(D) assist producers in meeting their conservation objectives.

(10) **PERSON.**—The term “person” means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) **PRODUCER.**—The term “producer” means any person who is engaged in the production and sale of an agricultural commodity in the United States and who owns, or shares the ownership and risk of loss of, the agricultural commodity.

(12) **PROMOTION.**—The term “promotion” means any action taken by a board under an order, including paid advertising, to present a favorable image of an agricultural commodity to the public to improve the competitive position of the agricultural commodity in the marketplace and to stimulate sales of the agricultural commodity.

(13) **RESEARCH.**—The term “research” means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of an agricultural commodity.

(14) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(15) **STATE.**—The term “State” means any of the States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(16) **SUSPEND.**—The term “suspend” means to issue a rule under section 553 of title 5, United States Code, to temporarily prevent the operation of an order during a particular period of time specified in the rule.

(17) **TERMINATE.**—The term “terminate” means to issue a rule under section 553 of title 5, United States Code, to

cancel permanently the operation of an order beginning on a date certain specified in the rule.

(18) UNITED STATES.—The term “United States” means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

**SEC. 514. ISSUANCE OF ORDERS.**

7 USC 7413.

(a) ISSUANCE AUTHORIZED.—

(1) IN GENERAL.—To effectuate the purpose of this subtitle, the Secretary may issue, and amend from time to time, orders applicable to—

(A) the producers of an agricultural commodity;

(B) the first handlers of the agricultural commodity and other persons in the marketing chain as appropriate; and

(C) the importers of the agricultural commodity, if imports of the agricultural commodity are subject to assessment under section 516(f).

(2) NATIONAL SCOPE.—Each order issued under this section shall be national in scope.

(b) PROCEDURE FOR ISSUANCE.—

(1) DEVELOPMENT OR RECEIPT OF PROPOSED ORDER.—A proposed order with respect to an agricultural commodity may be—

(A) prepared by the Secretary at any time; or

(B) submitted to the Secretary by—

(i) an association of producers of the agricultural commodity; or

(ii) any other person that may be affected by the issuance of an order with respect to the agricultural commodity.

(2) CONSIDERATION OF PROPOSED ORDER.—If the Secretary determines that a proposed order is consistent with and will effectuate the purpose of this subtitle, the Secretary shall publish the proposed order in the Federal Register and give due notice and opportunity for public comment on the proposed order.

(3) EXISTENCE OF OTHER ORDERS.—In deciding whether a proposal for an order is consistent with and will effectuate the purpose of this subtitle, the Secretary may consider the existence of other Federal promotion, research, and information programs or orders issued or developed pursuant to any other law.

(4) PREPARATION OF FINAL ORDER.—After notice and opportunity for public comment under paragraph (2) regarding a proposed order, the Secretary shall take into consideration the comments received in preparing a final order. The Secretary shall ensure that the final order is in conformity with the terms, conditions, and requirements of this subtitle.

(c) ISSUANCE AND EFFECTIVE DATE.—If the Secretary determines that the final order developed with respect to an agricultural commodity is consistent with and will effectuate the purpose of this subtitle, the Secretary shall issue the final order. Except in the case of an order for which an initial referendum is conducted under section 518(a), the final order shall be issued and become

Federal Register,  
publication.

(A) VACANCIES.—Each order shall provide for notice of board vacancies to the agricultural commodity industry involved.

(B) MEETINGS.—Each board shall provide the Secretary with prior notice of meetings of the board to permit the Secretary, or a designated representative of the Secretary, to attend the meetings.

(5) TERM OF OFFICE.—

(A) IN GENERAL.—The members and any alternates of a board shall each serve for a term of 3 years, except that the members and any alternates initially appointed to a board shall serve for terms of not more than 2, 3, and 4 years, as specified by the order.

(B) LIMITATION ON CONSECUTIVE TERMS.—A member or alternate may serve not more than 2 consecutive terms.

(C) CONTINUATION OF TERM.—Notwithstanding subparagraph (B), each member or alternate shall continue to serve until a successor is appointed by the Secretary.

(D) VACANCIES.—A vacancy arising before the expiration of a term of office of an incumbent member or alternate of a board shall be filled in a manner provided for in the order.

(6) COMPENSATION.—

(A) IN GENERAL.—Members and any alternates of a board shall serve without compensation.

(B) TRAVEL EXPENSES.—If approved by a board, members or alternates shall be reimbursed for reasonable travel expenses, which may include a per diem allowance or actual subsistence incurred while away from their homes or regular places of business in the performance of services for the board.

(c) POWERS AND DUTIES OF A BOARD.—Each order shall specify the powers and duties of the board established under the order, which shall include the power and duty—

(1) to administer the order in accordance with its terms and conditions and to collect assessments;

(2) to develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the board and such rules as may be necessary to administer the order, including activities authorized to be carried out under the order;

(3) to meet, organize, and select from among the members of the board a chairperson, other officers, and committees and subcommittees, as the board determines to be appropriate;

(4) to employ persons, other than the members, as the board considers necessary to assist the board in carrying out its duties, and to determine the compensation and specify the duties of the persons;

(5) subject to subsection (e), to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(6) to prepare and submit for the approval of the Secretary, before the beginning of each fiscal year, rates of assessment under section 517 and an annual budget of the anticipated expenses to be incurred in the administration of the order, including the probable cost of each promotion, research, and

information activity proposed to be developed or carried out by the board;

(7) to borrow funds necessary for the startup expenses of the order;

(8) subject to subsection (f), to enter into contracts or agreements to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(9) to pay the cost of the activities with assessments collected under section 517, earnings from invested assessments, and other funds;

Records.

(10) to keep records that accurately reflect the actions and transactions of the board, to keep and report minutes of each meeting of the board to the Secretary, and to furnish the Secretary with any information or records the Secretary requests;

(11) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(12) to recommend to the Secretary such amendments to the order as the board considers appropriate.

(d) PROHIBITED ACTIVITIES.—A board may not engage in, and shall prohibit the employees and agents of the board from engaging in—

(1) any action that would be a conflict of interest;

(2) using funds collected by the board under the order, any action undertaken for the purpose of influencing any legislation or governmental action or policy other than recommending to the Secretary amendments to the order; and

(3) any advertising, including promotion, research, and information activities authorized to be carried out under the order, that may be false or misleading or disparaging to another agricultural commodity.

(e) ACTIVITIES AND BUDGETS.—

(1) ACTIVITIES.—Each order shall require the board established under the order to submit to the Secretary for approval plans and projects for promotion, research, or information relating to the agricultural commodity covered by the order.

(2) BUDGETS.—

(A) SUBMISSION TO SECRETARY.—Each order shall require the board established under the order to submit to the Secretary for approval a budget of its anticipated annual expenses and disbursements to be paid to administer the order. The budget shall be submitted before the beginning of a fiscal year and as frequently as may be necessary after the beginning of the fiscal year.

(B) REIMBURSEMENT OF SECRETARY.—Each order shall require that the Secretary be reimbursed for all expenses incurred by the Secretary in the implementation, administration, and supervision of the order, including all referenda costs incurred in connection with the order.

(3) INCURRING EXPENSES.—A board may incur the expenses described in paragraph (2) and other expenses for the administration, maintenance, and functioning of the board as authorized by the Secretary.

(4) PAYMENT OF EXPENSES.—Expenses incurred under paragraph (3) shall be paid by a board using assessments collected under section 517, earnings obtained from assessments, and

other income of the board. Any funds borrowed by the board shall be expended only for startup costs and capital outlays.

(5) **LIMITATION ON SPENDING.**—For fiscal years beginning 3 or more years after the date of the establishment of a board, the board may not expend for administration (except for reimbursements to the Secretary required under paragraph (2)(B)), maintenance, and functioning of the board in a fiscal year an amount that exceeds 15 percent of the assessment and other income received by the board for the fiscal year.

(f) **CONTRACTS AND AGREEMENTS.**—

(1) **IN GENERAL.**—Each order shall provide that, with the approval of the Secretary, the board established under the order may—

(A) enter into contracts and agreements to carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order, including contracts and agreements with producer associations or other entities as considered appropriate by the Secretary; and

(B) pay the cost of approved generic promotion, research, and information activities using assessments collected under section 517, earnings obtained from assessments, and other income of the board.

(2) **REQUIREMENTS.**—Each contract or agreement shall provide that any person who enters into the contract or agreement with the board shall—

(A) develop and submit to the board a proposed activity together with a budget that specifies the cost to be incurred to carry out the activity;

(B) keep accurate records of all of its transactions relating to the contract or agreement; Records.

(C) account for funds received and expended in connection with the contract or agreement;

(D) make periodic reports to the board of activities conducted under the contract or agreement; and

(E) make such other reports as the board or the Secretary considers relevant.

(g) **RECORDS OF BOARD.**—

(1) **IN GENERAL.**—Each order shall require the board established under the order—

(A) to maintain such records as the Secretary may require and to make the records available to the Secretary for inspection and audit;

(B) to collect and submit to the Secretary, at any time the Secretary may specify, any information the Secretary may request; and

(C) to account for the receipt and disbursement of all funds in the possession, or under the control, of the board.

(2) **AUDITS.**—Each order shall require the board established under the order to have—

(A) its records audited by an independent auditor at the end of each fiscal year; and

(B) a report of the audit submitted directly to the Secretary. Reports.

(h) **PERIODIC EVALUATION.**—In accordance with section 501(c), each order shall require the board established under the order

- (1) is not inconsistent with the purpose of this subtitle, any term or condition specified in section 515, or any rule issued to carry out this subtitle; and
- (2) is necessary to administer the order.

7 USC 7416.

**SEC. 517. ASSESSMENTS.**

(a) **ASSESSMENTS AUTHORIZED.**—While an order issued under this subtitle is in effect with respect to an agricultural commodity, assessments shall be—

- (1) paid by first handlers with respect to the agricultural commodity produced and marketed in the United States; and
- (2) paid by importers with respect to the agricultural commodity imported into the United States, if the imported agricultural commodity is covered by the order pursuant to section 516(f).

(b) **COLLECTION.**—Assessments required under an order shall be remitted to the board established under the order at the time and in the manner prescribed by the order.

(c) **LIMITATION ON ASSESSMENTS.**—Not more than 1 assessment may be levied on a first handler or importer under subsection (a) with respect to any agricultural commodity.

(d) **ASSESSMENT RATES.**—The board shall recommend to the Secretary 1 or more rates of assessment to be levied under subsection (a). If approved by the Secretary, the rates shall take effect. An order may provide that an assessment rate may not be increased unless approved by a referendum conducted pursuant to section 518.

(e) **LATE-PAYMENT AND INTEREST CHARGES.**—

(1) **IN GENERAL.**—Late-payment and interest charges may be levied on each person subject to an order who fails to remit an assessment in accordance with subsection (b).

(2) **RATE.**—The rate for the charges shall be specified by the Secretary.

(f) **INVESTMENT OF ASSESSMENTS.**—Pending disbursement of assessments under a budget approved by the Secretary, a board may invest assessments collected under this section in—

- (1) obligations of the United States or any agency of the United States;
- (2) general obligations of any State or any political subdivision of a State;
- (3) interest-bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or
- (4) obligations fully guaranteed as to principal and interest by the United States.

(g) **REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.**—

(1) **ESCROW ACCOUNT.**—During the period beginning on the effective date of an order and ending on the date the Secretary announces the results of a referendum that is conducted under section 518(b)(1) with respect to the order, the board established under the order shall—

(A) establish and maintain an escrow account of the kind described in subsection (f)(3) to be used to refund assessments; and

(B) deposit funds in the account in accordance with paragraph (2).

(2) AMOUNT TO BE DEPOSITED.—The board shall deposit in the account an amount equal to 10 percent of the assessments collected during the period referred to in paragraph (1).

(3) RIGHT TO RECEIVE REFUND.—Subject to paragraphs (4), (5), and (6), persons subject to an order shall be eligible to demand a refund of assessments collected during the period referred to in paragraph (1) if—

(A) the assessments were remitted on behalf of the person; and

(B) the order is not approved in the referendum.

(4) FORM OF DEMAND.—The demand for a refund shall be made at such time and in such form as specified by the order.

(5) PAYMENT OF REFUND.—A person entitled to a refund shall be paid promptly after the board receives satisfactory proof that the assessment for which the refund is demanded was paid on behalf of the person who makes the demand.

(6) PRORATION.—If the funds in the escrow account required by paragraph (1) are insufficient to pay the amount of all refunds that persons subject to an order otherwise would have a right to receive under this subsection, the board shall prorate the amount of the funds among all the persons.

(7) CLOSING OF ESCROW ACCOUNT.—If the order is approved in a referendum conducted under section 518(b)(1)—

(A) the escrow account shall be closed; and

(B) the funds shall be available to the board for disbursement as authorized in the order.

#### SEC. 518. REFERENDA.

7 USC 7417.

(a) INITIAL REFERENDUM.—

(1) OPTIONAL REFERENDUM.—For the purpose of ascertaining whether the persons to be covered by an order favor the order going into effect, the order may provide for the Secretary to conduct an initial referendum among persons to be subject to an assessment under section 517 who, during a representative period determined by the Secretary, engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) PROCEDURE.—The results of the referendum shall be determined in accordance with subsection (e). The Secretary may require that the agricultural commodity industry involved post a bond or other collateral to cover the cost of the referendum.

(b) REQUIRED REFERENDA.—

(1) IN GENERAL.—For the purpose of ascertaining whether the persons covered by an order favor the continuation, suspension, or termination of the order, the Secretary shall conduct a referendum among persons subject to assessments under section 517 who, during a representative period determined by the Secretary, have engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) **TIME FOR REFERENDUM.**—The referendum shall be conducted not later than 3 years after assessments first begin under the order.

(3) **EXCEPTION.**—This subsection shall not apply if an initial referendum was conducted under subsection (a).

(c) **SUBSEQUENT REFERENDA.**—The Secretary shall conduct a subsequent referendum—

(1) not later than 7 years after assessments first begin under the order;

(2) at the request of the board established under the order;

or

(3) at the request of 10 percent or more of the number of persons eligible to vote under subsection (b)(1);

to determine if the persons favor the continuation, suspension, or termination of the order.

(d) **OTHER REFERENDA.**—The Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the order or a provision of the order is favored by persons eligible to vote under subsection (b)(1).

(e) **APPROVAL OF ORDER.**—An order may provide for its approval in a referendum—

(1) by a majority of those persons voting;

(2) by persons voting for approval who represent a majority of the volume of the agricultural commodity; or

(3) by a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity.

(f) **COSTS OF REFERENDA.**—The board established under an order with respect to which a referendum is conducted under this section shall reimburse the Secretary for any expenses incurred by the Secretary to conduct the referendum.

(g) **MANNER OF CONDUCTING REFERENDA.**—

(1) **IN GENERAL.**—A referendum conducted under this section shall be conducted in the manner determined by the Secretary to be appropriate.

(2) **ADVANCE REGISTRATION.**—If the Secretary determines that an advance registration of eligible voters in a referendum is necessary before the voting period in order to facilitate the conduct of the referendum, the Secretary may institute the advance registration procedures by mail, or in person through the use of national and local offices of the Department.

(3) **VOTING.**—Eligible voters may vote by mail ballot in the referendum or in person if so prescribed by the Secretary.

(4) **NOTICE.**—Not later than 30 days before a referendum is conducted under this section with respect to an order, the Secretary shall notify the agricultural commodity industry involved, in such manner as determined by the Secretary, of the period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under this subsection.

7 USC 7418.

**SEC. 519. PETITION AND REVIEW OF ORDERS.**

(a) **PETITION.**—

(1) **IN GENERAL.**—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARING.—The Secretary shall give the petitioner an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final, subject to review as set forth in subsection (b).

(4) LIMITATION ON PETITION.—Any petition filed under this subsection challenging an order, any provision of the order, or any obligation imposed in connection with the order, shall be filed within 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review the final ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of the final ruling by the Secretary under subsection (a)(3). Courts.

(2) PROCESS.—Service of process in a proceeding may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court determines to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) EFFECT ON ENFORCEMENT PROCEEDINGS.—The pendency of a petition filed under subsection (a) or an action commenced under subsection (b) shall not operate as a stay of any action authorized by section 520 to be taken to enforce this subtitle, including any rule, order, or penalty in effect under this subtitle.

#### SEC. 520. ENFORCEMENT.

7 USC 7419.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this subtitle. Courts.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person who committed the violation or by an administrative action under this section.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates an order or regulation issued by the Secretary under this Act

7 USC 7424.

**SEC. 525. REGULATIONS.**

The Secretary may issue such regulations as may be necessary to carry out this subtitle and the power vested in the Secretary under this subtitle.

7 USC 7425.

**SEC. 526. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

(b) **LIMITATION ON EXPENDITURES FOR ADMINISTRATIVE EXPENSES.**—Funds appropriated to carry out this subtitle may not be expended for the payment of expenses incurred by a board to administer an order.

Canola and  
Rapeseed  
Research,  
Promotion, and  
Consumer  
Information Act.  
7 USC 7401 note.  
7 USC 7441.

## Subtitle C—Canola and Rapeseed

**SEC. 531. SHORT TITLE.**

This subtitle may be cited as the “Canola and Rapeseed Research, Promotion, and Consumer Information Act”.

**SEC. 532. FINDINGS AND DECLARATION OF POLICY.**

(a) **FINDINGS.**—Congress finds that—

(1) canola and rapeseed products are an important and nutritious part of the human diet;

(2) the production of canola and rapeseed products plays a significant role in the economy of the United States in that—

(A) canola and rapeseed products are produced by thousands of canola and rapeseed producers and processed by numerous processing entities; and

(B) canola and rapeseed products produced in the United States are consumed by people throughout the United States and foreign countries;

(3) canola, rapeseed, and canola and rapeseed products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of canola and rapeseed products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for canola, rapeseed, and canola and rapeseed products are vital to the welfare of canola and rapeseed producers and processors and those persons concerned with marketing canola, rapeseed, and canola and rapeseed products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of canola, rapeseed, and canola and rapeseed products;

(5) there exist established State and national organizations conducting canola and rapeseed research, promotion, and consumer education programs that are valuable to the efforts of promoting the consumption of canola, rapeseed, and canola and rapeseed products;

(6) the cooperative development, financing, and implementation of a coordinated national program of canola and rapeseed research, promotion, consumer information, and industry information is necessary to maintain and expand existing markets and develop new markets for canola, rapeseed, and canola and rapeseed products; and

(7) canola, rapeseed, and canola and rapeseed products move in interstate and foreign commerce, and canola, rapeseed,

and canola and rapeseed products that do not move in interstate or foreign commerce directly burden or affect interstate commerce in canola, rapeseed, and canola and rapeseed products.

(b) **POLICY.**—It is the policy of this subtitle to establish an orderly procedure for developing, financing through assessments on domestically produced canola and rapeseed, and implementing a program of research, promotion, consumer information, and industry information designed to strengthen the position in the marketplace of the canola and rapeseed industry, to maintain and expand existing domestic and foreign markets and uses for canola, rapeseed, and canola and rapeseed products, and to develop new markets and uses for canola, rapeseed, and canola and rapeseed products.

(c) **CONSTRUCTION.**—Nothing in this subtitle provides for the control of production or otherwise limits the right of individual producers to produce canola, rapeseed, or canola or rapeseed products.

**SEC. 533. DEFINITIONS.**

7 USC 7442.

In this subtitle (unless the context otherwise requires):

(1) **BOARD.**—The term “Board” means the National Canola and Rapeseed Board established under section 535(b).

(2) **CANOLA; RAPESEED.**—The terms “canola” and “rapeseed” mean any brassica plant grown in the United States for the production of an oilseed, the oil of which is used for a food or nonfood use.

(3) **CANOLA OR RAPESEED PRODUCT.**—The term “canola or rapeseed product” means a product produced, in whole or in part, from canola or rapeseed.

(4) **COMMERCE.**—The term “commerce” includes interstate, foreign, and intrastate commerce.

(5) **CONFLICT OF INTEREST.**—The term “conflict of interest” means a situation in which a member of the Board has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture, or other business entity dealing directly or indirectly with the Board.

(6) **CONSUMER INFORMATION.**—The term “consumer information” means information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of canola, rapeseed, or canola or rapeseed products.

(7) **DEPARTMENT.**—The term “Department” means the Department of Agriculture.

(8) **FIRST PURCHASER.**—The term “first purchaser” means—

(A) except as provided in subparagraph (B), a person who buys or otherwise acquires canola, rapeseed, or canola or rapeseed products produced by a producer; or

(B) the Commodity Credit Corporation, in a case in which canola or rapeseed is forfeited to the Commodity Credit Corporation as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.

(9) **INDUSTRY INFORMATION.**—The term “industry information” means information or a program that will lead to the development of new markets, new marketing strategies, or increased efficiency for the canola and rapeseed industry, or an activity to enhance the image of the canola or rapeseed industry.

(10) **INDUSTRY MEMBER.**—The term “industry member” means a member of the canola and rapeseed industry who represents—

(A) manufacturers of canola or rapeseed products; or

(B) persons who commercially buy or sell canola or rapeseed.

(11) **MARKETING.**—The term “marketing” means the sale or other disposition of canola, rapeseed, or canola or rapeseed products in a channel of commerce.

(12) **ORDER.**—The term “order” means an order issued under section 534.

(13) **PERSON.**—The term “person” means an individual, partnership, corporation, association, cooperative, or any other legal entity.

(14) **PRODUCER.**—The term “producer” means a person engaged in the growing of canola or rapeseed in the United States who owns, or who shares the ownership and risk of loss of, the canola or rapeseed.

(15) **PROMOTION.**—The term “promotion” means an action, including paid advertising, technical assistance, or a trade servicing activity, to enhance the image or desirability of canola, rapeseed, or canola or rapeseed products in domestic and foreign markets, or an activity designed to communicate to consumers, processors, wholesalers, retailers, government officials, or other persons information relating to the positive attributes of canola, rapeseed, or canola or rapeseed products or the benefits of use or distribution of canola, rapeseed, or canola or rapeseed products.

(16) **RESEARCH.**—The term “research” means any type of test, study, or analysis to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of canola, rapeseed, or canola or rapeseed products, including research activity designed to identify and analyze barriers to export sales of canola or rapeseed produced in the United States.

(17) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(18) **STATE.**—The term “State” means any of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.

(19) **UNITED STATES.**—The term “United States” means collectively the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

7 USC 7443.

**SEC. 534. ISSUANCE AND AMENDMENT OF ORDERS.**

(a) **IN GENERAL.**—Subject to subsection (b), the Secretary shall issue 1 or more orders under this subtitle applicable to producers and first purchasers of canola, rapeseed, or canola or rapeseed products. The order shall be national in scope. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) **PROCEDURE.**—

(1) **PROPOSAL OR REQUEST FOR ISSUANCE.**—The Secretary may propose the issuance of an order under this subtitle, or an association of canola and rapeseed producers or any other person that would be affected by an order issued pursuant to this subtitle may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.— Publication.  
Not later than 60 days after the receipt of a request and proposal for an order pursuant to paragraph (1), or whenever the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order; taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subtitle. The order shall be issued and become effective not later than 180 days following publication of the proposed order. Effective date.

(c) AMENDMENTS.—The Secretary may amend an order issued under this section.

**SEC. 535. REQUIRED TERMS IN ORDERS.**

7 USC 7444.

(a) IN GENERAL.—An order issued under this subtitle shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF THE NATIONAL CANOLA AND RAPESEED BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a National Canola and Rapeseed Board to administer the order.

(2) SERVICE TO ENTIRE INDUSTRY.—The Board shall carry out programs and projects that will provide maximum benefit to the canola and rapeseed industry in all parts of the United States and only promote canola, rapeseed, or canola or rapeseed products.

(3) BOARD MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) 11 members who are producers, including—

(i) 1 member from each of the 6 geographic regions comprised of States where canola or rapeseed is produced, as determined by the Secretary; and

(ii) 5 members from the geographic regions referred to in clause (i), allocated according to the production in each region; and

(B) 4 members who are industry members, including at least—

(i) 1 member who represents manufacturers of canola or rapeseed end products; and

(ii) 1 member who represents persons who commercially buy or sell canola or rapeseed.

(4) LIMITATION ON STATE RESIDENCE.—There shall be no more than 4 producer members of the Board from any 1 State.

(5) MODIFYING BOARD MEMBERSHIP.—In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall review the geographic distribution of canola and rapeseed production throughout the United States and, if warranted, recommend to the Secretary that the Secretary—

(A) reapportion regions in order to reflect the geographic distribution of canola and rapeseed production; and

(B) reapportion the seats on the Board to reflect the production in each region.

(6) CERTIFICATION OF ORGANIZATIONS.—

(A) IN GENERAL.—For the purposes of section 536, the eligibility of any State organization to represent producers shall be certified by the Secretary.

(B) CRITERIA.—The Secretary shall certify any State organization that the Secretary determines has a history of stability and permanency and meets at least 1 of the following criteria:

(i) MAJORITY REPRESENTATION.—The total paid membership of the organization—

(I) is comprised of at least a majority of canola or rapeseed producers; or

(II) represents at least a majority of the canola or rapeseed producers in the State.

(ii) SUBSTANTIAL NUMBER OF PRODUCERS REPRESENTED.—The organization represents a substantial number of producers that produce a substantial quantity of canola or rapeseed in the State.

(iii) PURPOSE.—The organization is a general farm or agricultural organization that has as a stated objective the promotion and development of the United States canola or rapeseed industry and the economic welfare of United States canola or rapeseed producers.

(C) REPORT.—The Secretary shall make a certification under this paragraph on the basis of a factual report submitted by the State organization.

(7) TERMS OF OFFICE.—

(A) IN GENERAL.—A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) LIMITATION ON TERMS.—No individual may serve more than 2 consecutive 3-year terms as a member.

(C) TERMINATION OF TERMS.—Notwithstanding subparagraph (B), each member shall continue to serve until a successor is appointed by the Secretary.

(8) COMPENSATION.—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for and approved by the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and conditions of the order;

(2) to issue regulations to effectuate the terms and conditions of the order;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons, other than Board members, as the Board considers necessary, and to determine the compensation and define the duties of the persons;

(6) to prepare and submit for the approval of the Secretary, when appropriate or necessary, a recommended rate of assessment under section 536, and a fiscal period budget of the anticipated expenses in the administration of the order, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, subject to subsection (e), to develop and carry out programs or projects of research, promotion, industry information, and consumer information;

(9) to carry out research, promotion, industry information, and consumer information projects, and to pay the costs of the projects with assessments collected under section 536;

(10) to keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of producers, industry members, and the public to assist in the development of research, promotion, industry information, and consumer information programs for canola, rapeseed, and canola and rapeseed products;

(12) to invest, pending disbursement under a program or project, funds collected through assessments authorized under section 536, or funds earned from investments, only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System;

or

(D) obligations fully guaranteed as to principal and interest by the United States;

(13) to receive, investigate, and report to the Secretary complaints of violations of the order;

(14) to furnish the Secretary with such information as the Secretary may request;

(15) to recommend to the Secretary amendments to the order;

(16) to develop and recommend to the Secretary for approval such regulations as may be necessary for the development and execution of programs or projects, or as may otherwise be necessary, to carry out the order; and

(17) to provide the Secretary with advance notice of meetings.

(d) PROGRAMS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Board shall submit to the Secretary for approval any program or project of research, promotion, consumer information, or industry information. No program or project shall be implemented prior to approval by the Secretary.

(2) BUDGETS.—The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of a fiscal year, to submit to the Secretary for approval budgets of anticipated expenses and disbursements in the implementation of the order, including projected costs

of research, promotion, consumer information, and industry information programs and projects.

(3) **INCURRING EXPENSES.**—The Board may incur such expenses for programs or projects of research, promotion, consumer information, or industry information, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) **PAYING EXPENSES.**—The funds to cover the expenses referred to in paragraph (3) shall be paid by the Board from assessments collected under section 536 or funds borrowed pursuant to paragraph (5).

(5) **AUTHORITY TO BORROW.**—To meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(e) **CONTRACTS AND AGREEMENTS.**—

(1) **IN GENERAL.**—To ensure efficient use of funds, the order shall provide that the Board may enter into a contract or agreement for the implementation and carrying out of a program or project of canola, rapeseed, or canola or rapeseed products research, promotion, consumer information, or industry information, including a contract with a producer organization, and for the payment of the costs with funds received by the Board under the order.

(2) **REQUIREMENTS.**—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a program or project together with a budget that shall show the estimated costs to be incurred for the program or project;

(B) the program or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) **PRODUCER ORGANIZATIONS.**—The order shall provide that the Board may contract with a producer organization for any services required in addition to the services described in paragraph (1). The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) **BOOKS AND RECORDS OF THE BOARD.**—

(1) **IN GENERAL.**—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) **AUDITS.**—The Board shall cause the books and records of the Board to be audited by an independent auditor at the end of each fiscal year, and a report of the audit to be submitted to the Secretary.

Effective date.

Records.  
Reports.

Reports.

Reports.

(g) PROHIBITION.—

(1) IN GENERAL.—Subject to paragraph (2), the Board shall not engage in any action to, nor shall any funds received by the Board under this subtitle be used to—

- (A) influence legislation or governmental action;
  - (B) engage in an action that would be a conflict of interest;
  - (C) engage in advertising that is false or misleading;
- or
- (D) engage in promotion that would disparage other commodities.

(2) ACTION PERMITTED.—Paragraph (1) does not preclude—

- (A) the development and recommendation of amendments to the order;
  - (B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order;
- or
- (C) any action designed to market canola or rapeseed products directly to a foreign government or political subdivision of a foreign government.

(h) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each producer, first purchaser, or industry member shall—

- (A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this subtitle; and
- (B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this subtitle, including such records as are necessary to verify any required reports.

(2) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) DISCLOSURE.—Information referred to in subparagraph (A) may be disclosed to the public if—

- (i) the Secretary considers the information relevant;
- (ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and
- (iii) the information relates to this subtitle.

(C) MISCONDUCT.—A knowing disclosure of confidential information in violation of subparagraph (A) by an officer or employee of the Board or Department, except as required by other law or allowed under subparagraph (B) or (D), shall be considered a violation of this subtitle.

(D) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

- (i) the issuance of general statements based on the reports of a number of persons subject to an order

or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(3) AVAILABILITY OF INFORMATION FOR LAW ENFORCEMENT.—Information obtained under this subtitle may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(4) PENALTY.—Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than \$1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(5) WITHHOLDING OF INFORMATION.—Nothing in this subtitle authorizes the withholding of information from Congress.

(i) USE OF ASSESSMENTS.—The order shall provide that the assessments collected under section 536 shall be used for payment of the expenses in implementing and administering this subtitle, with provision for a reasonable reserve, and to cover administrative costs incurred by the Secretary in implementing and administering this subtitle.

(j) OTHER TERMS AND CONDITIONS.—The order shall contain such other terms and conditions, not inconsistent with this subtitle, as are determined necessary by the Secretary to effectuate this subtitle.

7 USC 7445.

**SEC. 536. ASSESSMENTS.**

(a) IN GENERAL.—

(1) FIRST PURCHASERS.—During the effective period of an order issued pursuant to this subtitle, assessments shall be—

(A) levied on all canola or rapeseed produced in the United States and marketed; and

(B) deducted from the payment made to a producer for all canola or rapeseed sold to a first purchaser.

(2) DIRECT PROCESSING.—The order shall provide that any person processing canola or rapeseed of that person's own production and marketing the canola or rapeseed, or canola or rapeseed products, shall remit to the Board or a State organization certified to represent producers under section 535(b)(6), in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for under subsection (d).

(b) LIMITATION ON ASSESSMENTS.—No more than 1 assessment may be assessed under subsection (a) on any canola or rapeseed produced (as remitted by a first purchaser).

(c) REMITTING OF ASSESSMENTS.—

(1) IN GENERAL.—Assessments required under subsection (a) shall be remitted to the Board by a first purchaser. The Board shall use State organizations certified to represent

producers under section 535(b)(6) to collect the assessments. If an appropriate certified State organization does not exist to collect an assessment, the assessment shall be collected by the Board. There shall be only 1 certified State organization in each State.

(2) **TIMES TO REMIT ASSESSMENT.**—Each first purchaser shall remit the assessment to the Board as provided for in the order.

(d) **ASSESSMENT RATE.**—

(1) **INITIAL RATE.**—The initial assessment rate shall be 4 cents per hundredweight of canola or rapeseed produced and marketed.

(2) **INCREASE.**—The assessment rate may be increased on recommendation by the Board to a rate not exceeding 10 cents per hundredweight of canola or rapeseed produced and marketed in a State, unless—

(A) after the initial referendum is held under section 537(a), the Board recommends an increase above 10 cents per hundredweight; and

(B) the increase is approved in a referendum under section 537(b).

(3) **CREDIT.**—A producer who demonstrates to the Board that the producer is participating in a program of a State organization certified to represent producers under section 535(b)(6) shall receive credit, in determining the assessment due from the producer, for contributions to the program of up to 2 cents per hundredweight of canola or rapeseed marketed.

(e) **LATE PAYMENT CHARGE.**—

(1) **IN GENERAL.**—There shall be a late payment charge imposed on any person who fails to remit, on or before the date provided for in the order, to the Board the total amount for which the person is liable.

(2) **AMOUNT OF CHARGE.**—The amount of the late payment charge imposed under paragraph (1) shall be prescribed by the Board with the approval of the Secretary.

(f) **REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.**—

(1) **ESTABLISHMENT OF ESCROW ACCOUNT.**—During the period beginning on the date on which an order is first issued under section 534(b)(3) and ending on the date on which a referendum is conducted under section 537(a), the Board shall—

(A) establish and maintain an escrow account to be used for assessment refunds; and

(B) place funds in the account in accordance with paragraph (2).

(2) **PLACEMENT OF FUNDS IN ACCOUNT.**—The Board shall place in the account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during the period by 10 percent.

(3) **RIGHT TO RECEIVE REFUND.**—The Board shall refund to a producer the assessments paid by or on behalf of the producer if—

(A) the producer is required to pay the assessment;

(B) the producer does not support the program established under this subtitle; and

(C) the producer demands the refund prior to the conduct of the referendum under section 537(a).

(4) FORM OF DEMAND.—The demand shall be made in accordance with such regulations, in such form, and within such time period as prescribed by the Board.

(5) MAKING OF REFUND.—The refund shall be made on submission of proof satisfactory to the Board that the producer paid the assessment for which the refund is demanded.

(6) PRORATION.—If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible producers; and

(B) the order is not approved pursuant to the referendum conducted under section 537(a);

the Board shall prorate the amount of the refunds among all eligible producers who demand a refund.

(7) PROGRAM APPROVED.—If the plan is approved pursuant to the referendum conducted under section 537(a), all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this subtitle.

7 USC 7446.

**SEC. 537. REFERENDA.**

(a) INITIAL REFERENDUM.—

(1) REQUIREMENT.—During the period ending 30 months after the date on which an order is first issued under section 534(b)(3), the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed for the purpose of ascertaining whether the order then in effect shall be continued.

(2) ADVANCE NOTICE.—The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. The notice shall be provided, without advertising expenses, by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Cooperative State Research, Education, and Extension Service offices and county Consolidated Farm Service Agency offices, and by other appropriate means specified in the order. The notice shall contain information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent information.

(3) APPROVAL OF ORDER.—The order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(4) DISAPPROVAL OF ORDER.—If continuation of the order is not approved by a majority of the producers voting in the referendum, the Secretary shall terminate collection of assessments under the order within 180 days after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—

(A) REQUIREMENT.—After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a rep-

Termination  
date.

representative group of producers, as described in subparagraph (B).

(B) REPRESENTATIVE GROUP OF PRODUCERS.—An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed.

(C) ELIGIBLE PRODUCERS.—Each additional referendum shall be conducted among all producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed to determine whether the producers favor the termination or suspension of the order.

(2) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 180 days after the determination, and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the determination.

Termination  
date.

(3) OPPORTUNITY TO REQUEST ADDITIONAL REFERENDA.—

(A) IN GENERAL.—Beginning on the date that is 5 years after the conduct of a referendum under this subtitle, and every 5 years thereafter, the Secretary shall provide canola and rapeseed producers an opportunity to request an additional referendum.

(B) METHOD OF MAKING REQUEST.—

(i) IN-PERSON REQUESTS.—To carry out subparagraph (A), the Secretary shall establish a procedure under which a producer may make a request for a reconfirmation referendum in person at a county Cooperative State Research, Education, and Extension Service office or a county Consolidated Farm Service Agency office during a period established by the Secretary, or as provided in clause (ii).

(ii) MAIL-IN REQUESTS.—In lieu of making a request in person, a producer may make a request by mail. To facilitate the submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) NOTIFICATIONS.—The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for an in-person request, of the opportunity of producers to request an additional referendum. The notification shall explain the right of producers to an additional referendum, the procedure for a referendum, the purpose of a referendum, and the date and method by which producers may act to request an additional referendum under this paragraph. The Secretary shall take such other action as the Secretary determines is necessary to ensure that producers are made aware of the opportunity to request an additional referendum.

Federal Register,  
publication.

(D) ACTION BY SECRETARY.—As soon as practicable following the submission of a request for an additional referendum, the Secretary shall determine whether a sufficient number of producers have requested the referendum, and take such steps as are necessary to conduct the referendum, as required under paragraph (1).

(E) TIME LIMIT.—An additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of the referendum.

(c) PROCEDURES.—

(1) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of an activity required under this section.

(2) DATE.—Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure under which producers intending to vote in the referendum shall certify that the producers were engaged in the production of canola, rapeseed, or canola or rapeseed products during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda under this section shall be conducted at locations determined by the Secretary. On request, absentee mail ballots shall be furnished by the Secretary in a manner prescribed by the Secretary.

7 USC 7447.

**SEC. 538. PETITION AND REVIEW.**

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(4) LIMITATION ON PETITION.—Any petition filed under this subtitle challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) REVIEW.—

Courts.

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which the person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition, if a complaint is filed by the person not later than 20 days

after the date of the entry of a ruling by the Secretary under subsection (a)(3).

(2) **PROCESS.**—Service of process in a proceeding under paragraph (1) shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) **REMANDS.**—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) **ENFORCEMENT.**—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 539.

**SEC. 539. ENFORCEMENT.**

Courts.  
7 USC 7448.

(a) **JURISDICTION.**—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation made or issued under this subtitle.

(b) **REFERRAL TO ATTORNEY GENERAL.**—A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person committing the violation or by administrative action under subsection (c).

(c) **CIVIL PENALTIES AND ORDERS.**—

(1) **CIVIL PENALTIES.**—

(A) **IN GENERAL.**—Any person who willfully violates any provision of an order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit an assessment or fee required of the person under an order or regulation, may be assessed—

(i) a civil penalty by the Secretary of not more than \$1,000 for each violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) **SEPARATE OFFENSE.**—Each violation under subparagraph (A) shall be a separate offense.

(2) **CEASE-AND-DESIST ORDERS.**—In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation.

(3) **NOTICE AND HEARING.**—No penalty shall be assessed, or cease-and-desist order issued, by the Secretary under this subsection unless the person against whom the penalty is assessed or the cease-and-desist order is issued is given notice and opportunity for a hearing before the Secretary with respect to the violation.

(4) **FINALITY.**—The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the order in the appropriate district court of the United States in accordance with subsection (d).

(d) **REVIEW BY DISTRICT COURT.**—

(1) **COMMENCEMENT OF ACTION.**—Any person who has been determined to be in violation of this subtitle, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (c), may obtain review of the penalty or cease-and-desist order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or cease-and-desist order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or carries on business; or

(ii) the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) **RECORD.**—The Secretary shall file promptly, in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary determined that the person committed the violation.

(3) **STANDARD OF REVIEW.**—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) **FAILURE TO OBEY CEASE-AND-DESIST ORDERS.**—Any person who fails to obey a cease-and-desist order issued under this section after the cease-and-desist order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than \$5,000 for each offense. Each day during which the failure continues shall be considered as a separate violation of the cease-and-desist order.

(f) **FAILURE TO PAY PENALTIES.**—If a person fails to pay an assessment of a civil penalty under this section after the assessment has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) **ADDITIONAL REMEDIES.**—The remedies provided in this subtitle shall be in addition to, and not exclusive of, other remedies that may be available.

7 USC 7449.

**SEC. 540. INVESTIGATIONS AND POWER TO SUBPOENA.**

(a) **INVESTIGATIONS.**—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; and

(2) to determine whether any person has engaged or is engaging in an act that constitutes a violation of this subtitle, or an order, rule, or regulation issued under this subtitle.

**(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—**

(1) **IN GENERAL.**—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, take evidence, and issue subpoenas to require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(2) **ADMINISTRATIVE HEARINGS.**—For the purpose of an administrative hearing held under section 538 or 539, the presiding officer is authorized to administer oaths and affirmations, subpoena and compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) **AID OF COURTS.**—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring the person to comply with the subpoena.

(d) **CONTEMPT.**—A failure to obey an order of the court under this section may be punished by the court as contempt of the court.

(e) **PROCESS.**—Process may be served on a person in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) **HEARING SITE.**—The site of a hearing held under section 538 or 539 shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

**SEC. 541. SUSPENSION OR TERMINATION.**

7 USC 7450.

The Secretary shall, whenever the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the declared policy of this subtitle, suspend or terminate the operation of the order or provision. The suspension or termination of an order shall not be considered an order within the meaning of this subtitle.

**SEC. 542. REGULATIONS.**

7 USC 7451.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

**SEC. 543. AUTHORIZATION OF APPROPRIATIONS.**

7 USC 7452.

(a) **IN GENERAL.**—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

(b) **ADMINISTRATIVE EXPENSES.**—Funds appropriated under subsection (a) shall not be available for payment of the expenses or expenditures of the Board in administering a provision of an order issued under this subtitle.