To consolidate and revise the authority of the Secretary of Agriculture relating to protection of animal health.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 2000

Mr. Peterson of Minnesota (for himself and Mr. Pombo) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To consolidate and revise the authority of the Secretary of Agriculture relating to protection of animal health.

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Animal Health Protection Act”.

(b) Table of Contents.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Restriction on importation or entry.
Sec. 5. Exportation.
Sec. 6. Interstate movement.
SEC. 2. FINDINGS.

The Congress finds that—

(1) the prevention, detection, control, and eradication of diseases and pests of animals are essential to protect animal health and the health and welfare of the people of the United States, the economic interests of the United States livestock and related industries, the environment of the United States, and interstate and foreign commerce of the United States in animals and other articles;

(2) animal diseases and pests are primarily transmitted by animals and articles regulated under this Act;

(3) the health of animals is affected by the methods by which animals and articles are transported in interstate commerce and foreign commerce;
(4) the Secretary must continue to conduct re-
search on animal diseases and pests which con-
stitutes a threat to the livestock of the United
States; and

(5) all animals and articles regulated under this
Act are in or affect interstate commerce or foreign
commerce, and regulation by the Secretary and co-
operation by the Secretary with other nations, States
or other jurisdictions, or persons are necessary to
prevent and eliminate burdens on interstate com-
merce and foreign commerce, to regulate effectively
interstate commerce and foreign commerce, and to
protect the agriculture, the environment, the econ-
omy, and the health and welfare of the people of the
United States.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ANIMAL.—The term “animal” means any
member of the animal kingdom (except humans), in-
cluding embryos.

(2) ARTICLE.—The term “article” means any
pest or disease or any material or tangible object
that could harbor pests or diseases.

(3) DISEASE.—The term “disease” means any
infectious or non-infectious disease or condition af-
fecting the health of livestock or any condition detri-
mental to production or marketing of livestock.

4 ENTER AND ENTRY.—The terms enter and entry mean to move into, or the act of movement into, the commerce of the United States.

5 EXPORT AND EXPORTATION.—The terms export and exportation mean to move from, or the act of movement from, the United States to any place outside of the United States.

6 FACILITY.—The term “facility” means any structure.

7 IMPORT AND IMPORTATION.—The term import and importation mean to move into, or the act of movement into, the territorial limits of the United States.

8 INTERSTATE.—The term “interstate” means—

(A) from one State into or through any other State; or

(B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.
(9) **INTERSTATE COMMERCE.**—The term “inter-
state commerce” means trade, traffic, or other
commerce—

(A) between a place in a State and a point
in another State, or between points within the
same State but through any place outside that
State; or

(B) within the District of Columbia,
Guam, the Virgin Islands of the United States,
or any other territory or possession of the
United States.

(10) **LIVESTOCK.**—The term “livestock” means
all farm-raised animals, including embryos of such
animals.

(11) **MEANS OF CONVEYANCE.**—The term
“means of conveyance” means any personal property
used for or intended for use for the movement of
any other personal property.

(12) **MOVE AND RELATED TERMS.**—The terms
move, moving, and movement mean—

(A) to carry, enter, import, mail, ship, or
transport;

(B) to aid, abet, cause, or induce the car-
rying, entering, importing, mailing, shipping, or
transporting;
(C) to offer to carry, enter, import, mail, ship, or transport;

(D) to receive in order to carry, enter, import, mail, ship, or transport;

(E) to release into the environment; or

(F) to allow any of the activities included within this paragraph.

(13) PERSON.—The term “person” means any individual, partnership, corporation, association, joint venture, or other legal entity.

(14) PEST.—The term pest means any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any animal:

(A) A protozoan.

(B) A plant.

(C) A bacteria.

(D) A fungus.

(E) A virus or viroid.

(F) An infectious agent or other pathogen.

(G) An arthropod.

(H) A parasite.

(I) A prion.

(J) A vector.
(K) Any organism similar to or allied with any of the organisms specified in the preceding subparagraphs.

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

(16) STATE.—The term “State” means any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(17) THIS ACT.—Except when used in this section, the term this Act includes any regulation or order issued by the Secretary under the authority of this Act.

(18) UNITED STATES.—The term “United States” means all of the States.

SEC. 4. RESTRICTION ON IMPORTATION OR ENTRY.

(a) IN GENERAL.—The Secretary may prohibit or restrict the—

(1) importation or entry of any animal, article, or means of conveyance or use of any means of conveyance or facility if the Secretary determines that the prohibition or restriction is necessary to prevent
the possibility of introduction into or dissemination within the United States of any pest or disease of livestock;

(2) importation or entry of any livestock if the Secretary determines that the livestock is unfit to be moved;

(3) further movement of any animal that has strayed into the United States if the Secretary determines that the prohibition or restriction is necessary to prevent the possibility of introduction or dissemination of any disease or pest of livestock within the United States; and

(4) use of any means of conveyance in connection with the importation or entry of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance does not have accommodations for the safe and proper movement and humane treatment of livestock.

(b) REGULATIONS.—The Secretary may issue regulations requiring that any animal, article, or means of conveyance imported, entered, or moved in interstate commerce—
(1) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of any disease or pest of livestock; and

(2) with respect to animals, be raised or handled under post-import quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the animal may be affected by any disease or pest of livestock.

(c) DESTRUCTION OR REMOVAL.—

(1) IN GENERAL.—The Secretary may order the destruction or the removal from the United States of—

(A) any animal, article, or means of conveyance that has been imported but has not entered the United States if the Secretary determines that destruction or removal from the United States is necessary to prevent the possibility of the introduction or dissemination of any disease or pest of livestock into or within the United States;

(B) any animal, article, means of conveyance, or progeny of any animal that has been imported or entered in violation of this Act;

(C) any livestock imported, but not entered, that is unfit to be moved; and
(D) any animal that has strayed into the United States if the Secretary determines that destruction or removal from the United States is necessary to prevent the possibility of the introduction or dissemination of any disease or pest of livestock into or within the United States.

(2) REQUIREMENTS OF OWNERS.—If an owner or agent of the owner fails to comply with the Secretary’s order, the Secretary may destroy or remove from the United States the animal, article, or means of conveyance as authorized under paragraph (1) and recover from the owner or agent of the owner the costs of any care, handling, and disposal incurred by the Secretary in connection with the destruction or removal.

SEC. 5. EXPORTATION.

(a) IN GENERAL.—The Secretary may prohibit or restrict the—

(1) exportation of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the possibility of dissemination from or within the United States of any disease or pest of livestock;
(2) exportation of any livestock if the Secretary determines that the livestock is unfit to be moved;

(3) use of any means of conveyance or facility in connection with the exportation of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the possibility of dissemination from or within the United States of any disease or pest of livestock; and

(4) use of any means of conveyance in connection with the exportation of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance does not have accommodations for the safe and proper movement and humane treatment of livestock.

(b) Certification.—The Secretary may certify as to the class, quality, quantity, condition, processing, handling, or storage of any animal or article intended for export.

SEC. 6. INTERSTATE MOVEMENT.

(a) In General.—The Secretary may prohibit or restrict the—

(1) movement in interstate commerce of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the possibility of interstate
introduction or dissemination of any disease or pest of livestock; and

(2) use of any means of conveyance or facility in connection with the movement in interstate commerce of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the possibility of interstate introduction or dissemination of any disease or pest of livestock.

(b) MOVEMENT OF LIVESTOCK.—

(1) IN GENERAL.—No person shall confine alpaca, bison, buffalo, camel, cattle, deer, donkey, elk, goat, horse, llama, mule, reindeer, sheep, swine, or such other animals that the Secretary may designate in regulation, except embryos of such animals and equines for slaughter, moved in interstate commerce in any means of conveyance for a period longer than twenty-eight consecutive hours without unloading such animals in a humane manner into properly equipped pens for rest, water, and feeding, for a period of at least five consecutive hours, unless prevented by storm or by other accidental or unavoidable causes which cannot be anticipated or avoided by the exercise of due diligence and foresight.

(2) TIME OF CONFINEMENT.—When calculating the time of confinement, the time consumed in load-
ing and unloading shall not be considered, but the
time during which such animals have been confined
on any connecting means of conveyance without un-
loading in accordance with paragraph (1) shall be
included.

(3) RESTING AND FEEDING.—

(A) IN GENERAL.—Such animals unloaded
under this subsection shall be properly rested,
fed, and watered either by the owner or shipper,
or in the case of a default in so doing, then by
the owner or operator of the means of convey-
ance transporting such animals, at the reason-
able expense of the owner or shipper of such
animals.

(B) LIENS.—The owner or operator of the
means of conveyance transporting such animals
shall in such case have a lien upon such ani-
mals for food, water, care, and custody fur-
nished, collectible at destination in the same
manner as the transportation charges are col-
lected, and shall not be liable for any detention
when the detention is of reasonable duration to
enable compliance with this subsection.

(C) OWNER OR SHIPPER PROVIDING FOOD
or water.—Nothing in this subsection shall be
construed to prevent the owner or shipper from furnishing food and water, if the owner or shipper so desires.

(4) Application of Requirement.—The requirements of this subsection do not apply if such animals are carried in any means of conveyance in which proper food, water, space, and opportunity to rest have been provided, as determined by the Secretary.

SEC. 7. SEIZURE, QUARANTINE, AND DISPOSAL

(a) In General.—The Secretary may hold, seize, quarantine, treat, apply other remedial measures to, destroy or otherwise dispose of—

(1) any animal, article, or means of conveyance that is moving or has been moved in interstate commerce or has been imported and that the Secretary has reason to believe may carry, may have carried, may have been affected with or exposed to any pest or disease of livestock at the time of movement or which is otherwise in violation of this Act;

(2) any animal, article, means of conveyance, or progeny of any animal that is moving or is being handled or has moved or has been handled in interstate commerce in violation of this Act;
(3) any animal, article, means of conveyance, or progeny of any animal that has been imported and is moving or is being handled or has moved or has been handled in violation of this Act; and 

(4) any animal, article, means of conveyance, or progeny of any animal that the Secretary finds is not being maintained or has not been maintained in accordance with any post-import quarantine, post-import condition, post-movement quarantine, or post-movement condition in accordance with this Act.

(b) Extraordinary Emergency.—

(1) In general.—If the Secretary determines that an extraordinary emergency exists because of the presence in the United States of a dangerous disease or pest of livestock and that the presence of the disease or pest threatens the livestock of the United States, the Secretary may—

(A) quarantine any State, portion of a State, or premises in which the Secretary finds—

(i) any animal that is or may have been affected with or exposed to the disease or pest; or

...
(ii) any article, facility, or means of conveyance that the Secretary finds is or was so related to an animal that was possibly affected or exposed to the disease or pest or so related to the disease or pest as to be a possible means of disseminating the disease or pest;

(B) hold, seize, treat, apply other remedial measures to, destroy, or otherwise dispose of—

(i) any animal that the Secretary has reason to believe is or may have been affected with or exposed to the disease or pest, or

(ii) any article, facility, or means of conveyance that the Secretary has reason to believe is or was so related to an animal that was possibly affected or exposed to the disease or pest as to be a possible means of disseminating the disease or pest;

(C) prohibit or restrict the movement within a State of any animal or article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the possibility of dissemination of the disease or pest; and
(D) prohibit or restrict the use of any article, means of conveyance, or facility in connection with the movement within a State of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the possibility of dissemination of the disease or pest.

(2) LIMITATION.—The Secretary may take action under this subsection upon finding, after review and consultation with the Governor or other appropriate official of the State, that measures being taken by the State are inadequate to control and eradicate the disease or pest. Before any action is taken in any State under this subsection, the Secretary shall notify the Governor or other appropriate official of the State, issue a public announcement, and, except as provided in the following sentence, file for publication in the Federal Register a statement of the Secretary’s findings, the action the Secretary intends to take, and the reasons for the intended action. If it is not possible to file for publication in the Federal Register prior to taking action, the filing shall be made within a reasonable time, not to exceed 10 business days, after commencement of the action.
(c) **Disposal and Quarantine Requirements of Owners.**—The Secretary, in writing, may order the owner of any animal, article, facility, or means of conveyance referred to in subsections (a) or (b), or the agent of the owner, to maintain in quarantine and to dispose of the animal, article, facility, or means of conveyance in any manner as the Secretary may direct. If the owner or agent of the owner fails to comply with the Secretary’s order, the Secretary may seize, quarantine, or dispose of the animal, article, facility, or means of conveyance as authorized by subsection (a) or (b) and recover from the owner, or agent of the owner, the costs of any care, handling, and disposal incurred by the Secretary in connection with the seizure, quarantine, or disposal.

(d) **Compensation.**—

(1) **In General.**—The Secretary shall compensate the owner of any animal, article, facility, or means of conveyance which the Secretary requires to be destroyed pursuant to this section.

(2) **Level.**—

(A) **In General.**—The compensation shall be based upon the fair market value as determined by the Secretary of the animal, article, facility, or means of conveyance.
(B) LIMITATION.—Compensation paid any owner under this subsection shall not exceed the difference between any compensation received by the owner from a State or other source and the fair market value of the animal, article, facility, or means of conveyance.

(C) REVIEWABILITY OF DETERMINATION.—The determination by the Secretary of the amount to be paid under this subsection shall be final and shall not be subject to judicial review.

(3) EXCEPTIONS.—No payment shall be made by the Secretary under this subsection for—

(A) any animal, article, facility, or means of conveyance that has been moved or handled by the owner or the owner’s agent, in violation of an agreement for the control and eradication of diseases or pests or in violation of this Act;

(B) any progeny of any animal or article, which animal or article has been moved or handled by the owner of the animal or article, or the owner’s agent, in violation of this Act;

(C) any animal, article, or means of conveyance that is refused entry under this Act; or
(D) any animal, article, facility, or means
of conveyance that becomes or has become af-
fected with or exposed to any disease or pest of
livestock because of a violation of an agreement
for the control and eradication of diseases or
pests or a violation of this Act.

SEC. 8. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) ROLE OF ATTORNEY GENERAL.—The activities
authorized by this section shall be carried out consistent
with guidelines approved by the Attorney General.

(b) WARRANTLESS INSPECTIONS.—The Secretary
may stop and inspect, without a warrant, any person or
means of conveyance moving—

(1) into the United States to determine whether
the person or means of conveyance is carrying any
animal or article regulated under this Act or is mov-
ing subject to this Act;

(2) in interstate commerce upon probable cause
to believe that the person or means of conveyance is
carrying any animal or article, regulated under this
Act or is moving subject to this Act; and

(3) in intrastate commerce from any State, por-
tion of a State, or premises quarantined under sec-
tion 7(b) upon probable cause to believe that the
person or means of conveyance is carrying any ani-
mal or article regulated under section 7(b) or is moving subject to section 7(b).

(c) INSPECTIONS WITH A WARRANT.—

(1) GENERAL AUTHORITY.—The Secretary may enter, with a warrant, any premises in the United States for the purpose of making inspections and seizures under this Act.

(2) APPLICATION AND ISSUANCE OF A WARRANT.—Upon proper oath or affirmation showing probable cause to believe that there is on certain premises any animal, article, facility, or means of conveyance regulated under this Act, a United States judge, a judge of a court of record in the United States, or a United States magistrate judge may, within the judge’s or magistrate’s jurisdiction, issue a warrant for the entry upon the premises to make any inspection or seizure under this Act. The warrant may be applied for and executed by the Secretary or any United States Marshal.

SEC. 9. DETECTION, CONTROL, AND ERADICATION OF DISEASES AND PESTS.

(a) IN GENERAL.—The Secretary may carry out operations and measures, including the drawing of blood and diagnostic testing of animals, including animals at slaugh-
terhouses, stockyards, and other points of concentration to—

(1) detect, control, and eradicate any disease or pest of animals; and

(2) detect and control any conditions detrimental to production and marketing of livestock.

(b) COMPENSATION.—The Secretary may pay claims growing out of the voluntary destruction of any animal possibly affected with or exposed to any disease or pest.

SEC. 10. VETERINARY ACCREDITATION PROGRAM.

The Secretary may establish a veterinary accreditation program consistent with the purposes of this Act, including the establishment of standards of conduct for accredited veterinarians.

SEC. 11. COOPERATION.

(a) IN GENERAL.—The Secretary may cooperate with other Federal agencies, States or political subdivisions of States, national governments, local governments of other nations, domestic or international organizations, domestic or international associations, and other persons to carry out this Act.

(b) RESPONSIBILITY.—The person or other entity cooperating with the Secretary shall be responsible for the authority necessary to carry out the operations or measures on all lands and properties within the foreign country
or State, other than those owned or controlled by the United States, and for other facilities and means as the Secretary determines necessary.

(c) Use of Funds.—In addition to the purposes specified in this section, funds appropriated pursuant to this section may be used for printing and binding without regard to section 501 of title 44, United States Code, for the employment of civilian nationals of countries involved, and for the construction and operation of research laboratories, quarantine stations, and other buildings and facilities for special purposes.

(d) Screwworms.—

(1) In General.—The Secretary may independently or in cooperation with national governments of other nations, international organizations, or international associations produce and sell sterile screwworms to any national government of other nations, international organization, or international association, if the Secretary determines that the livestock industry and related industries of the United States will not be adversely affected by the production and sale.

(2) Proceeds.—If the Secretary independently produces and sells sterile screwworms in accordance with paragraph (1), the proceeds of the sale shall be
deposited into the Treasury of the United States and
be credited to the appropriation from which the op-
erating expenses of the facility producing the sterile
screwworm have been paid. If the Secretary cooper-
ates to produce and sell sterile screwworms in ac-
cordance with paragraph (1), the proceeds of the
sale shall be divided between the United States and
the national government, international organization,
or international association with which the Secretary
cooperates, as determined by the Secretary. The
United States portion of the proceeds shall be depos-
ited into the Treasury of the United States and be
credited to the appropriation from which the oper-
ating expenses of the facility producing the sterile
screwworm have been paid.

(e) Cooperation in Program Administration.—
The Secretary may cooperate with State authorities or
other persons in the administration of regulations for the
improvement of livestock and their products.

(f) Consultation With Other Federal Agen-
cies.—The Secretary shall consult with the appropriate
Secretary or head of another Federal agency with respect
to any activity that is subject to regulation by that Federal
agency.
SEC. 12. REIMBURSABLE AGREEMENTS.

(a) Authority To Enter Into Agreements.—
The Secretary may enter into reimbursable fee agreements with persons for pre-clearance of animals or articles at locations outside the United States for movement into the United States.

(b) Funds Collected for Preclearance.—
Funds collected for pre-clearance shall be credited to accounts which may be established by the Secretary for this purpose and shall remain available until expended for the pre-clearance activities without fiscal year limitation.

(c) Payment of Employees.—

(1) In general.—Notwithstanding any other law, the Secretary may pay employees of the United States Department of Agriculture performing services relating to imports into and exports from the United States, for all overtime, night, or holiday work performed by them at rates of pay established by the Secretary.

(2) Reimbursement.—

(A) In general.—The Secretary may require persons for whom the services are performed to reimburse the Secretary for any sums of money paid by the Secretary for the services.

(B) Use of funds.—All funds collected under this subsection shall be credited to the
account that incurs the costs and shall remain available until expended without fiscal year limitation.

(d) Late Payment Penalties.—

(1) Collection.—Upon failure to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty, and the overdue funds shall accrue interest, as required by section 3717 of title 31, United States Code.

(2) Use of Funds.—Any late payment penalty and any accrued interest shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

SEC. 13. BUILDINGS, LAND, PEOPLE, AGREEMENTS, AND CLAIMS.

(a) In General.—The Secretary may acquire and maintain all real or personal property for special purposes and employ any persons, make grants, and enter into any contracts, cooperative agreements, memoranda of understanding, or other agreements necessary for carrying out this Act.

(b) Tort Claims.—

(1) In General.—Except as provided in paragraph (2), the Secretary may pay tort claims, in the manner authorized in the first paragraph of section
2672 of title 28, United States Code, when the
claims arise outside the United States in connection
with activities authorized under this Act.

(2) REQUIREMENTS OF A CLAIM.—A claim may
not be allowed under this subsection unless it is pre-
sented in writing to the Secretary within two years
after the claim accrues.

SEC. 14. FIREARMS.

Any employee of the United States Department of
Agriculture designated by the Secretary and the Attorney
General of the United States may carry a firearm and use
a firearm when necessary for self-protection, in accordance
with regulations issued by the Secretary and the Attorney
General of the United States, while the employee is en-
gaged in the performance of the employee’s official duties
to carry out this Act.

SEC. 15. PENALTIES FOR VIOLATION.

(a) CRIMINAL PENALTIES.—Any person who know-
ingly violates this Act, or who knowingly forges, counter-
feits, or, without authority from the Secretary, uses, al-
ters, defaces, or destroys any certificate, permit, or other
document provided for in this Act shall be guilty of a mis-
demeanor, and, upon conviction, shall be fined in accord-
ance with the provisions of title 18, United States Code,
imprisoned for a period not exceeding one year, or fined and imprisoned.

(b) CIVIL PENALTY.—

(1) IN GENERAL.—Any person who violates this Act, or who forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this Act may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary—

(A) $50,000 in the case of any individual (except that the civil penalty may not exceed $1,000 in the case of an initial violation of this Act by an individual moving regulated articles not for monetary gain), $250,000 in the case of any other person for each violation, and $500,000 for all violations adjudicated in a single proceeding; or

(B) twice the gross gain or gross loss for any violation or forgery, counterfeiting, or unauthorized use, defacing or destruction of a certificate, permit, or other document provided for in this Act that results in the person deriving pecuniary gain or causing pecuniary loss to another.
(2) **Factors in Determining Civil Penalty.**—In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstance, extent, and gravity of the violation or violations and the Secretary may consider, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior violations, the degree of culpability, and any other factors the Secretary deems appropriate.

(3) **Settlement of Civil Penalties.**—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that may be assessed under this subsection.

(4) **Finality of Orders.**—The order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of the Secretary’s order may not be reviewed in an action to collect the civil penalty. Any civil penalty not paid in full when due under an order assessing the civil penalty shall thereafter accrue interest until paid at the rate of interest applicable to civil judgments of the courts of the United States.

(c) **Suspension or Revocation of Accreditation.**—
(1) **IN GENERAL.**—The Secretary may, after notice and opportunity for a hearing on the record, suspend or revoke the accreditation of any veterinarian accredited under this Act who violates this Act. The order of the Secretary suspending or revoking accreditation shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(2) **SUMMARY SUSPENSION.**—

(A) **IN GENERAL.**—Notwithstanding paragraph (1), the Secretary may summarily suspend the accreditation of a veterinarian, whom the Secretary has reason to believe has violated a provision of this Act, to protect the public health, interest, or safety.

(B) **HEARING.**—The Secretary shall provide the accredited veterinarian with a subsequent notice and an opportunity for a prompt post-suspension hearing on the record.

(d) **LIABILITY FOR ACTS OF AN AGENT.**—When construing and enforcing this Act, the act, omission, or failure of any officer, agent, or person acting for or employed by any other person within the scope of his or her employment or office, shall be deemed also to be the act, omission, or failure of the other person.
(e) **GUIDELINES FOR CIVIL PENALTIES.**—The Secretary shall coordinate with the Attorney General to establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this Act.

**SEC. 16. ENFORCEMENT.**

(a) **COLLECTION OF INFORMATION.**—

(1) **IN GENERAL.**—The Secretary may gather and compile information and conduct any investigations the Secretary considers necessary for the administration and enforcement of this Act.

(2) **SUBPOENAS.**—

(A) **IN GENERAL.**—The Secretary shall have power to subpoena the attendance and testimony of any witness, and the production of all documentary evidence relating to the administration or enforcement of this Act or any matter under investigation in connection with this Act.

(B) **LOCATION OF PRODUCTION.**—The attendance of any witness and production of documentary evidence may be required from any place in the United States at any designated place of hearing.
(C) Enforcement of Subpoena.—In case of disobedience to a subpoena by any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated in requiring the attendance and testimony of any witness and the production of documentary evidence. In case of a refusal to obey a subpoena issued to any person, a court may order the person to appear before the Secretary and give evidence concerning the matter in question or to produce documentary evidence. Any failure to obey the court’s order may be punished by the court as contempt of the court.

(D) Compensation.—Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid to witnesses in courts of the United States, and witnesses whose depositions are taken and the persons taking the depositions shall be entitled to the same fees that are paid for similar services in the courts of the United States.
(E) Procedures.—The Secretary shall publish procedures for the issuance of subpoenas under this section. Such procedures shall include a requirement that subpoenas be reviewed for legal sufficiency and signed by the Secretary. If the authority to sign a subpoena is delegated, the agency receiving the delegation shall seek review for legal sufficiency outside that agency.

(F) Scope of Subpoena.—Subpoenas for witnesses to attend court in any judicial district or testify or produce evidence at an administrative hearing in any judicial district in any action or proceeding arising under this Act may run to any other judicial district.

(b) Authority of the Attorney General.—The Attorney General may—

(1) prosecute, in the name of the United States, all criminal violations of this Act that are referred to the Attorney General by the Secretary or are brought to the notice of the Attorney General by any person;

(2) bring an action to enjoin the violation of or to compel compliance with this Act, or to enjoin any interference by any person with the Secretary in car-
rying out this Act, whenever the Secretary has rea-
son to believe that the person has violated, or is
about to violate this Act, or has interfered, or is
about to interfere, with the Secretary; and

(3) bring an action for the recovery of any un-
paid civil penalty, funds under reimbursable agree-
ments, late payment penalty, or interest assessed
under this Act.

(e) Court Jurisdiction.—

(1) In General.—The United States district
courts, the District Court of Guam, the District
Court of the Virgin Islands, the highest court of
American Samoa, and the United States courts of
the other territories and possessions are vested with
jurisdiction in all cases arising under this Act. Any
action arising under this Act may be brought, and
process may be served in the judicial district where
a violation or interference occurred or is about to
occur, or where the person charged with the viola-
tion, interference, impending violation, impending in-
terference, or failure to pay resides, is found, trans-
acts business, is licensed to do business, or is incor-
porated.

(2) Exception.—Paragraph (1) does not apply
to subsections (b) and (c) of section 15.
SEC. 17. AUTHORIZATION OF APPROPRIATIONS AND TRANSFER AUTHORITY.

(a) Authorization of Appropriation.—There are authorized to be appropriated such sums of money as may be necessary to carry out this Act.

(b) Authority To Transfer Certain Funds.—The Secretary may, in connection with an emergency in which a disease or pest of livestock threatens any segment of the agricultural production of the United States, transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture any sum of money as the Secretary may deem necessary to be available in the emergency for the arrest, control, eradication, and prevention of the spread of the disease or pest of livestock and for related expenses. Any funds transferred under this section shall remain available for such purposes without fiscal year limitation.

SEC. 18. REGULATIONS AND ORDERS.

The Secretary may issue any regulations or orders as the Secretary deems necessary to carry out this Act.

SEC. 19. PREEMPTION.

(a) Regulation of Foreign Commerce.—No State or political subdivision of a State may regulate the movement in foreign commerce of any animal, article, or means of conveyance in order to control a disease or pest of livestock.
(b) Regulation of Interstate Commerce.—

(1) In general.—Except as provided in paragraph (2), no State or political subdivision of a State may regulate the movement in interstate commerce of any animal, article, or means of conveyance in order to control a disease or pest of livestock.

(2) Exceptions.—

(A) Regulations consistent with federal regulations.—A State or a political subdivision of a State may impose a prohibition or restriction upon the movement in interstate commerce of an animal, article, or means of conveyance that is consistent with, and does not exceed, regulations or orders issued by the Secretary.

(B) Special need.—A State or political subdivision of a State may impose a prohibition or restriction upon the movement in interstate commerce of an animal, article, or means of conveyance that is in addition to a prohibition or restriction imposed by the Secretary, if the State or political subdivision of a State demonstrates to the Secretary and the Secretary finds that there is a special need for an addi-
tional prohibition or restriction based on sound scientific data or a thorough risk assessment.

SEC. 20. SEVERABILITY.

If any provision of this Act or application of any provision of this Act to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons and circumstances shall not be affected by the invalidity.

SEC. 21. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—The following provisions of law are hereby repealed:

(1) Section 101(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 429).

(2) The Act of August 28, 1950 (Chap. 815, 64 Stat. 561, 7 U.S.C. 2260), An Act to enable the Secretary of Agriculture to furnish, upon a reimbursable basis, certain inspection services involving overtime work.

(3) Section 919 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2260a).

(4) Section 1 of the Act of October 14, 1982 (7 U.S.C. 2274), An Act to authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal
quarantine laws to carry firearms for self-protection
and to improve the quality of table grapes for mar-
ket in the United States.

(5) Section 306 of the Tariff Act of 1930 (19

(6) Sections 6–8 and 10 of the Act of August
30, 1890 (21 U.S.C. 102–105), An Act providing for
an inspection of meats for exportation, prohibiting
the importation of adulterated articles of food or
drink, and authorizing the President to make procla-
mation in certain cases, and for other purposes.

111, 120–122), An Act to enable the Secretary of
Agriculture to more effectively suppress and prevent
the spread of contagious and infectious diseases of
livestock, and for other purposes.

(8) Sections 2–9, 11, and 13 of the Act of May
29, 1884 (Chap. 60, 23 Stat. 32, 21 U.S.C. 112,
113, 114, 114a, 114a–1, 115–120, and 130).

(9) Sections 1, 2, 3, and 5 of the Act of Feb-
uary 28, 1947 (21 U.S.C. 114b, 114c, 114d, and
114d–1), An Act to authorize the Secretary of Agri-
culture to cooperate with the Government of Mexico
in the control and elimination of foot and mouth dis-
ease and rinderpest.
(10) The Act of June 16, 1948 (21 U.S.C. 114e and 114f), An Act authorizing additional research and investigation into problems and methods relating to the eradication of cattle grubs, and for other purposes.


(13) The third and fourth provisos of the fourth paragraph under the heading Bureau of Animal Industry of the Act of May 31, 1920 (21 U.S.C. 116), An Act making appropriations for the Department of Agriculture for fiscal year ending June 30, 1921.”.


(16) The fourth proviso in the paragraph under
the heading Salaries and Expenses, Animal and
Plant Health Inspection Service of the Department
of Agriculture, Rural Development, Food and Drug
Administration, and Related Agencies Appropriation

(17) The third paragraph under the heading
Miscellaneous of the Act of May 26, 1910 (21
U.S.C. 131), An Act making appropriations for the
Department of Agriculture for the fiscal year ending
June thirtieth, nineteen hundred and eleven.

(18) Sections 1–6 and 11–13 of the Act of July
2, 1962 (21 U.S.C. 134–134h), An Act to provide
greater protection against the introduction and dis-
semination of diseases of livestock and poultry, and
for other purposes.

(19) The Act of May 6, 1970 (Public Law 91–

(20) Sections 12 through 14 of the Federal

(21) Sections 3901 and 3902 of title 46, United
States Code.

(22) Section 80502 of title 49, United States
Code.
(23) The first section of Public Law 97–46 (7 U.S.C. 147b).

(b) CONFORMING AMENDMENT.—(1) Section 18 of the Federal Meat Inspection Act (21 U.S.C. 618) is amended by striking of the cattle and all that follows through as herein described and inserting the carcasses and products of cattle, sheep, swine, goats, horses, mules, and other equines.

(2) Section 2509(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(c)) is amended by adding after paragraph (1) the following:

“(2) The Secretary of Agriculture is authorized to prescribe and collect fees to recover the costs of carrying out the provisions of the Animal Health Protection Act which relate to veterinary diagnostics.”.