

107TH CONGRESS
1ST SESSION

S. 1255

To encourage the use of carbon storage sequestration practices in the United States.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2001

Mr. WYDEN (for himself and Mr. BROWNBACK) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To encourage the use of carbon storage sequestration practices in the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Carbon Sequestration and Reporting Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—CARBON ADVISORY COUNCIL

Sec. 101. Carbon advisory council.

Sec. 102. National inventory and voluntary reporting of greenhouse gases.

TITLE II—FOREST CARBON MANAGEMENT

Sec. 201. Forest carbon storage and sequestration.

TITLE III—CARBON SEQUESTRATION PROGRAM

Sec. 301. Establishment.

Sec. 302. Funding.

Sec. 303. Regulations.

Sec. 304. Effective dates.

TITLE IV—REPORTS

Sec. 401. Initial report.

Sec. 402. Annual report.

Sec. 403. State report.

1 **TITLE I—CARBON ADVISORY**
2 **COUNCIL**

3 SEC. 101. CARBON ADVISORY COUNCIL.

4 The Energy Policy Act of 1992 is amended by insert-
5 ing after section 1609 (42 U.S.C. 13388) the following:

6 “SEC. 1610. CARBON ADVISORY COUNCIL.

7 “(a) DEFINITIONS.—In this section:

8 “(1) CARBON ADVISORY COUNCIL.—The term
9 ‘Carbon Advisory Council’ means the Carbon Advi-
10 sory Council established under subsection (b).

11 “(2) CARBON SEQUESTRATION.—The term ‘car-
12 bon sequestration’ means the action of vegetable
13 matter in—

14 “(A) extracting carbon dioxide from the at-
15 mosphere through photosynthesis;

16 “(B) converting the carbon dioxide to car-
17 bon; and

1 “(C) storing the carbon in the form of
2 roots, stems, soil, or foliage.

3 “(3) CARBON STORAGE.—The term ‘carbon
4 storage’ means the quantity of carbon sequestered
5 from the atmosphere and stored in forest carbon res-
6 ervoirs.

7 “(4) FOREST CARBON PROGRAM.—The term
8 ‘forest carbon program’ means the program estab-
9 lished under section 2404(b) of the Global Climate
10 Change Prevention Act of 1990 to provide financial
11 assistance for forest carbon activities through—

12 “(A) cooperative agreements; and

13 “(B) State revolving loan funds.

14 “(5) FOREST MANAGEMENT ACTION.—

15 “(A) IN GENERAL.—The term ‘forest man-
16 agement action’ means an action that—

17 “(i) applies forestry principles to the
18 regeneration, management, utilization, and
19 conservation of forests to meet specific
20 goals and objectives; and

21 “(ii) maintains the productivity of the
22 forests.

23 “(B) INCLUSIONS.—The term ‘forest man-
24 agement action’ includes management of forests
25 for the benefit of—

- 1 “(i) aesthetics;
- 2 “(ii) fish;
- 3 “(iii) recreation;
- 4 “(iv) urban values;
- 5 “(v) water;
- 6 “(vi) wilderness;
- 7 “(vii) wildlife;
- 8 “(viii) wood products; and
- 9 “(ix) other forest values.

10 “(6) INDIAN TRIBE.—The term ‘Indian tribe’
 11 has the meaning given the term by section 4 of the
 12 Indian Health Care Improvement Act (25 U.S.C.
 13 1603).

14 “(7) REFORESTATION.—

15 “(A) IN GENERAL.—The term ‘reforest-
 16 ation’ means the reestablishment of forest cover
 17 naturally or artificially.

18 “(B) INCLUSIONS.—The term ‘reforest-
 19 ation’ includes—

- 20 “(i) planned replanting;
- 21 “(ii) reseeding; and
- 22 “(iii) natural regeneration.

23 “(b) ESTABLISHMENT.—The Secretary shall estab-
 24 lish an advisory council, to be known as the ‘Carbon Advi-
 25 sory Council’, to—

1 “(1) advise the Secretary on the development
2 and updating of guidelines for accurate reporting of
3 greenhouse gas sequestration from soil carbon and
4 forest management actions;

5 “(2) evaluate the potential effectiveness of the
6 guidelines in verifying carbon inputs and outputs
7 from various soil carbon and forest management
8 strategies;

9 “(3) estimate the effect of implementing the
10 guidelines on carbon sequestration and storage; and

11 “(4) assist the Secretary in preparing the an-
12 nual report required by section 402(a) of the Carbon
13 Storage and Sequestration Act (including the assess-
14 ment of the vulnerability of forests and agricultural
15 land to the adverse effects of climate change).

16 “(c) MEMBERSHIP.—The Carbon Advisory Council
17 shall be composed of 21 members as follows:

18 “(1) The Secretary of Agriculture (or a des-
19 ignee).

20 “(2) The Secretary of Energy (or a designee).

21 “(3) The Secretary of the Interior (or a des-
22 ignee).

23 “(4) The Secretary of State (or a designee).

24 “(5) The Administrator of the Environmental
25 Protection Agency (or a designee).

1 “(6) The Chief of the Forest Service (or a des-
2 ignee)

3 “(7) 15 members appointed jointly by the Sec-
4 retary of Agriculture and the Secretary of Energy as
5 follows:

6 “(A) 1 member representing professional
7 forestry organizations.

8 “(B) 2 members representing environ-
9 mental or conservation organizations.

10 “(C) 1 member representing nonindustrial
11 private landowners.

12 “(D) 1 member representing the forest in-
13 dustry.

14 “(E) 1 member representing Indian tribes.

15 “(F) 1 member representing forest work-
16 ers.

17 “(G) 3 members representing the academic
18 scientific community.

19 “(H) 2 members representing State for-
20 estry organizations.

21 “(I) 2 members representing nongovern-
22 mental organizations who have an expertise and
23 experience in soil carbon sequestration prac-
24 tices.

1 “(J) 1 member representing commercial
2 agricultural producers.

3 “(d) TERM.—

4 “(1) IN GENERAL.—Except as provided in para-
5 graph (3), a member of the Carbon Advisory Council
6 appointed under subsection (c)(7) shall be appointed
7 for a term of 3 years.

8 “(2) CONSECUTIVE TERMS.—No individual ap-
9 pointed under subsection (c)(7) may serve on the
10 Carbon Advisory Council for more than 2 consec-
11 utive terms.

12 “(3) INITIAL TERMS.—Of the members first ap-
13 pointed to the Carbon Advisory Council under sub-
14 section (c)(7)—

15 “(A) 5 of the members shall be appointed
16 for a term of 1 year;

17 “(B) 5 of the members shall be appointed
18 for a term of 2 years; and

19 “(C) 5 of the members shall be appointed
20 for a term of 3 years.

21 “(e) VACANCY.—

22 “(1) IN GENERAL.—A vacancy on the Carbon
23 Advisory Council shall be filled in the same manner
24 as the original appointment was made.

1 “(2) FILLING OF UNEXPIRED TERM.—An indi-
 2 vidual chosen to fill a vacancy shall be appointed for
 3 the unexpired term of the member replaced.

4 “(f) COMPENSATION.—

5 “(1) NON-FEDERAL EMPLOYEES.—A member
 6 of the Carbon Advisory Council who is not an officer
 7 or employee of the Federal Government shall be
 8 compensated at a rate equal to the daily equivalent
 9 of the annual rate of basic pay prescribed for level
 10 IV of the Executive Schedule under section 5315 of
 11 title 5, United States Code, for each day (including
 12 travel time) during which the member is engaged in
 13 the performance of the duties of the Carbon Advi-
 14 sory Council.

15 “(2) FEDERAL EMPLOYEES.—A member of the
 16 Carbon Advisory Council who is an officer or em-
 17 ployee of the Federal Government shall serve with-
 18 out compensation in addition to the compensation
 19 received for the services of the member as an officer
 20 or employee of the Federal Government.

21 “(3) TRAVEL EXPENSES.—A member of the
 22 Carbon Advisory Council shall be allowed travel ex-
 23 penses, including per diem in lieu of subsistence, at
 24 rates authorized for an employee of an agency under
 25 subchapter I of chapter 57 of title 5, United States

1 Code, while away from the home or regular place of
 2 business of the member in the performance of the
 3 duties of the Carbon Advisory Council.

4 “(4) SUPPORT.—The Secretary shall provide fi-
 5 nancial and administrative support to the Carbon
 6 Advisory Council.

7 “(g) USE OF EXISTING COUNCIL.—The Secretary
 8 may designate a council in existence as of the date of en-
 9 actment of this section to perform the tasks of the Carbon
 10 Advisory Council if (as determined by the Secretary)—

11 “(1) the responsibilities of the Carbon Advisory
 12 Council, as described in subsection (b), are a high
 13 priority for the existing council; and

14 “(2) the representation, membership terms,
 15 background, and responsibilities of the existing
 16 council correspond to the requirements for the Car-
 17 bon Advisory Council established under subsections
 18 (c) and (d).

19 “(h) DUTIES.—

20 “(1) REVIEW OF GUIDELINES.—Not later than
 21 18 months after the date of enactment of this sec-
 22 tion, the Carbon Advisory Council shall—

23 “(A) review the guidelines established
 24 under section 1605(b)(1) that address proce-
 25 dures for the accurate voluntary reporting of

1 greenhouse gas sequestration from tree plant-
2 ing, forest management actions, and agricul-
3 tural land;

4 “(B) make recommendations to the Sec-
5 retary to amend the guidelines; and

6 “(C) before submitting the guidelines to
7 the Secretary, provide an opportunity for public
8 comment on the guidelines.

9 “(2) ESTABLISHMENT OF GUIDELINES.—

10 “(A) REPORTING GUIDELINES.—The rec-
11 ommendations under paragraph (1)(B) shall in-
12 clude recommendations for reporting guidelines
13 that—

14 “(i) are based on—

15 “(I) measuring increases in car-
16 bon storage in excess of the carbon
17 storage that would have occurred but
18 for reforestation, forest management,
19 forest protection, or other soil carbon
20 and forest management actions; and

21 “(II) comprehensive carbon ac-
22 counting that reflects net increases in
23 the carbon reservoir and takes into
24 account any carbon emissions result-
25 ing from the disturbance of carbon

1 reservoirs existing at the beginning of
2 a soil carbon or forest management
3 action; and

4 “(ii) include options for—

5 “(I) estimating the indirect ef-
6 fects of soil carbon and forest man-
7 agement actions on carbon storage,
8 including the potential displacement
9 of carbon emissions;

10 “(II) quantifying the expected
11 carbon storage over various time peri-
12 ods, as determined by the Secretary,
13 taking into account the duration of
14 carbon stored in the carbon reservoir;
15 and

16 “(III) considering the economic
17 and social effects of soil carbon and
18 forest management alternatives.

19 “(B) ACCURATE MONITORING, MEASURE-
20 MENT, AND VERIFICATION GUIDELINES.—

21 “(i) IN GENERAL.—The recommenda-
22 tions under paragraph (1)(B) shall include
23 recommended practices for monitoring,
24 measurement, and verification of carbon

1 storage from soil carbon and forest man-
2 agement actions.

3 “(ii) REQUIREMENTS.—The rec-
4 ommended practices shall, to the maximum
5 extent practicable—

6 “(I) be based on statistically
7 sound sampling strategies that build
8 on knowledge of the carbon dynamics
9 of forests and agricultural land;

10 “(II) compute carbon stocks and
11 changes in carbon stocks, by taking
12 field condition measurements and
13 modeling;

14 “(III) include guidelines on how
15 to sample and calculate carbon se-
16 questration across multiple partici-
17 pating ownerships; and

18 “(IV) encourage the use of more
19 precise measurements at the option of
20 a reporting entity.

21 “(C) STATE GUIDELINES.—The rec-
22 ommendations under paragraph (1)(B) shall in-
23 clude State guidelines for reporting, monitoring,
24 and verifying carbon storage under the forest
25 carbon program.

1 “(D) BIOMASS ENERGY PROJECTS.—The
2 recommendations under paragraph (1)(B) shall
3 include guidelines for calculating net green-
4 house gas reductions from biomass energy
5 projects, including—

6 “(i) net changes in carbon storage re-
7 sulting from changes in land use; and

8 “(ii) the effect of using biomass to
9 generate electricity (including co-firing of
10 biomass with fossil fuels) on the displace-
11 ment of greenhouse gas emissions from
12 fossil fuels.

13 “(3) REVIEW OF GUIDELINES.—At least once
14 every 24 months, the Carbon Advisory Council shall
15 meet to—

16 “(A) evaluate the latest scientific and ob-
17 servational information on reporting, moni-
18 toring, and verification of carbon storage from
19 forest soil carbon and forest management ac-
20 tions; and

21 “(B) recommend to the Secretary, revised
22 guidelines for reporting, monitoring, and
23 verification of carbon storage from soil carbon
24 and forest management actions to reflect the
25 evaluation.

1 “(4) COMPLIANCE WITH OTHER LAWS.—The
 2 Advisory Committee shall meet, as necessary, to en-
 3 sure that the guidelines for reporting, monitoring,
 4 and verification of carbon storage from forest man-
 5 agement actions are revised to be consistent with
 6 any Federal or State laws enacted after the date of
 7 enactment of this section.”.

8 **SEC. 102. NATIONAL INVENTORY AND VOLUNTARY REPORT-**
 9 **ING OF GREENHOUSE GASES.**

10 Section 1605(b) of the Energy Policy Act of 1992
 11 (42 U.S.C. 13385(b)) is amended by adding at the end
 12 the following:

13 “(5) AMENDMENT OF GUIDELINES.—Not later
 14 than 180 days after receiving the recommendations
 15 of the Carbon Advisory Council under subsection
 16 1610(h)(1)(B), the Secretary (acting through the
 17 Administrator of the Energy Information Adminis-
 18 tration) shall, as appropriate, revise the guidelines
 19 established under paragraph (1) to reflect the rec-
 20 ommendations of the Carbon Advisory Council.”.

1 **TITLE II—FOREST CARBON**
 2 **MANAGEMENT**

3 **SEC. 201. FOREST CARBON STORAGE AND SEQUESTRATION.**

4 The Global Climate Change Prevention Act of 1990
 5 is amended by inserting after section 2403 (7 U.S.C.
 6 6702) the following:

7 **“SEC. 2404. FOREST CARBON MANAGEMENT.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) CARBON ADVISORY COUNCIL.—The term
 10 ‘Carbon Advisory Council’ means the Carbon Advi-
 11 sory Council established by section 1610(b) of the
 12 Energy Policy Act of 1992.

13 “(2) CARBON STORAGE.—The term ‘carbon
 14 storage’ means the quantity of carbon sequestered
 15 from the atmosphere and stored in forest carbon res-
 16 ervoirs.

17 “(3) FOREST CARBON PROGRAM.—The term
 18 ‘forest carbon program’ means the program estab-
 19 lished under subsection (b) to provide financial as-
 20 sistance for forest carbon activities through—

21 “(A) cooperative agreements; and

22 “(B) State revolving loan funds.

23 “(4) FOREST CARBON RESERVOIR.—The term
 24 ‘forest carbon reservoir’ means—

1 “(A) trees, roots, soils, or other biomass
2 associated with forest ecosystems; and

3 “(B) products from the biomass that store
4 carbon.

5 “(5) FOREST LAND—

6 “(A) IN GENERAL.—The term ‘forest land’
7 means land that is, or has been, at least 10 per-
8 cent stocked by forest trees of any size.

9 “(B) INCLUSIONS.—The term ‘forest land’
10 includes—

11 “(i) land on which forest cover may be
12 naturally or artificially regenerated; and

13 “(ii) a transition zone between a for-
14 ested area and nonforested area that is ca-
15 pable of sustaining forest cover.

16 “(6) FOREST MANAGEMENT ACTION.—

17 “(A) IN GENERAL.—The term ‘forest man-
18 agement action’ means an action that—

19 “(i) applies forestry principles to the
20 regeneration, management, use, and con-
21 servation of forests to meet specific goals
22 and objectives; and

23 “(ii) maintains the productivity of the
24 forests.

1 “(B) INCLUSIONS.—The term ‘forest man-
2 agement action’ includes management of forests
3 for the benefit of—

4 “(i) aesthetics;

5 “(ii) fish;

6 “(iii) recreation;

7 “(iv) urban values;

8 “(v) water;

9 “(vi) wilderness;

10 “(vii) wildlife;

11 “(viii) wood products; and

12 “(ix) other forest values.

13 “(7) INDIAN TRIBE.—The term ‘Indian tribe’
14 has the meaning given the term in section 4 of the
15 Indian Health Care Improvement Act (25 U.S.C.
16 1603).

17 “(8) INVASIVE SPECIES.—The term ‘invasive
18 species’ means a species that is not native to an eco-
19 system, the introduction of which may cause harm
20 to the economy, the environment, or human health.

21 “(9) NONINDUSTRIAL PRIVATE FOREST.—The
22 term ‘nonindustrial private forest’ means forest land
23 that is privately owned by a person that—

24 “(A) does not control a forest products
25 manufacturing facility; and

1 “(B) manages the land solely for the pur-
2 poses of timber production.

3 “(10) REFORESTATION.—

4 “(A) IN GENERAL.—The term ‘reforest-
5 ation’ means the reestablishment of forest cover
6 naturally or artificially.

7 “(B) INCLUSIONS.—The term ‘reforest-
8 ation’ includes—

9 “(i) planned replanting;

10 “(ii) reseeding; and

11 “(iii) natural regeneration.

12 “(11) REVOLVING LOAN PROGRAM.—The term
13 ‘revolving loan program’ means a State revolving
14 loan program established under subsection
15 (b)(2)(A).

16 “(12) SECRETARY.—The term ‘Secretary’
17 means the Secretary of Agriculture, acting through
18 the Chief of the Forest Service.

19 “(b) FOREST CARBON PROGRAM.—

20 “(1) COOPERATIVE AGREEMENT.—The Sec-
21 retary may enter into a cooperative agreement with
22 willing landowners who are State or local govern-
23 ments, Indian tribes, private, nonprofit entities, and
24 other persons to carry out forest carbon activities on

1 private land, State land, Indian tribe land, or private
2 land.

3 “(2) REVOLVING LOAN PROGRAM.—

4 “(A) IN GENERAL.—In collaboration with
5 State Foresters and representatives of non-
6 governmental organizations, the Secretary shall
7 provide assistance to States to establish a re-
8 volving loan program to carry out forest carbon
9 activities on nonindustrial private forest land.

10 “(B) ELIGIBILITY.—An owner of non-
11 industrial private forest land shall be eligible
12 for assistance from a revolving loan fund for
13 forest carbon activities on not more than a total
14 of 5,000 acres of nonindustrial private forest
15 land of the owner.

16 “(C) LOAN TERMS.—

17 “(i) IN GENERAL.—To be eligible for
18 a loan under this section, an owner of non-
19 industrial private forest land shall enter
20 into a loan agreement with the State.

21 “(ii) INTEREST RATE.—The loan
22 agreement shall have loan interest rates
23 that are established by the State—

1 “(I) to encourages participation
 2 of nonindustrial private forest land-
 3 owners in the revolving loan program;

4 “(II) to provide a net rate of re-
 5 turn of not more than 3 percent; and

6 “(III) to further the objectives of
 7 this section.

8 “(iii) REPAYMENT.—The loan agree-
 9 ment shall require that loan obligations be
 10 repaid to the State—

11 “(I)(aa) at the time of harvest of
 12 land covered by the revolving loan
 13 program; or

14 “(bb) in accordance with a repay-
 15 ment schedule determined by the
 16 State; and

17 “(II) at a rate proportional to
 18 the percentage decrease of carbon
 19 stock.

20 “(iv) INSURANCE.—The loan agree-
 21 ment shall include provisions that provide
 22 for private insurance, or that release the
 23 owner from the financial obligation for any
 24 portion of the timber, forest products, or
 25 other biomass that—

1 “(I) is lost to insects, disease,
2 fire, storm, flood, or other cir-
3 cumstance beyond the control of the
4 owner; or

5 “(II) cannot be harvested be-
6 cause of restrictions on tree har-
7 vesting imposed by the applicable
8 Federal, State, or local government
9 after the date of the loan agreement.

10 “(v) LIEN.—The loan agreement
11 shall—

12 “(I) impose a lien on all timber,
13 forest products, and biomass produced
14 on land covered by the loan agree-
15 ment; and

16 “(II) provide an assurance that
17 the terms of the lien shall transfer
18 with the land on sale, lease, or trans-
19 fer of the land.

20 “(vi) BUYOUT OPTION.—The loan
21 agreement shall include a buyout option
22 that specifies the financial terms under
23 which the owner may terminate the
24 agreement—

1 “(I) before harvesting timber
2 from the stand established with loan
3 funds; and

4 “(II) by repaying the loan with
5 interest.

6 “(vii) **ATTRIBUTION.**—The loan agree-
7 ment shall provide that, until the loan is
8 paid in full by the participating owner or
9 otherwise terminated in accordance with
10 this section, all reductions in atmospheric
11 greenhouse gases achieved as the result of
12 the loan shall be attributed to any non-
13 Federal entities that provide funding for
14 the loan (including the State or any other
15 person or nongovernmental organization
16 that provides funding to the State for the
17 issuance of the loan).

18 “(viii) **MONITORING AND**
19 **VERIFICATION.**—The loan agreement shall
20 include provisions for the monitoring and
21 verification of carbon storage.

22 “(D) **PERMANENT CONSERVATION EASE-**
23 **MENT.**—

24 “(i) **IN GENERAL.**—A borrower may
25 donate to the State or to another appro-

1 priate entity a permanent conservation
2 easement that—

3 “(I) furthers the objectives of
4 this section, including managing the
5 land in a manner that maximizes the
6 forest carbon reservoir of the land;
7 and

8 “(II) permanently protects the
9 covered private forest land and re-
10 sources at a level above that required
11 under applicable Federal, State, and
12 local law.

13 “(ii) TERMS.—A permanent conserva-
14 tion easement under clause (i) may permit
15 the continuation of forest management ac-
16 tions that—

17 “(I) increase carbon storage on
18 the land and forest; or

19 “(II) furthers the objectives of
20 this section.

21 “(iii) EFFECT ON LOAN AGREE-
22 MENT.—

23 “(I) REQUIRED CANCELLA-
24 TION.—If the borrower donates to the
25 State a permanent conservation ease-

1 ment under clause (i), the State shall
2 cancel—

3 “(aa) the loan agreement
4 under subparagraph (C); and

5 “(bb) any liens on the tim-
6 ber, forest products, and biomass
7 under subparagraph (C)(v).

8 “(II) PERMISSIBLE CANCELLA-
9 TION.—If the borrower donates to an-
10 other appropriate entity a permanent
11 conservation easement under clause
12 (i), the State may cancel—

13 “(aa) the loan agreement
14 under subparagraph (C); and

15 “(bb) any liens on the tim-
16 ber, forest products, and biomass
17 under subparagraph (C)(v).

18 “(E) REINVESTMENT OF FUNDS.—Any
19 funds collected under a loan issued under this
20 section (including loan repayments, loan
21 buyouts, and any interest payments) shall be—

22 “(i) reinvested by the State in the re-
23 volving loan program; and

1 “(ii) used by the State to make addi-
2 tional loans under the revolving loan pro-
3 gram.

4 “(F) RECORDS.—The State Forester of a
5 State shall—

6 “(i) maintain all records related to
7 any loan agreement funded by a revolving
8 loan fund of the State; and

9 “(ii) make the records available to the
10 public.

11 “(G) MATCHING FUNDS.—

12 “(i) IN GENERAL.—Beginning the sec-
13 ond year in which a State participates in
14 the revolving loan program, and each year
15 thereafter, to be eligible to receive Federal
16 funds under this subsection a State shall
17 provide matching non-Federal funds equal
18 to at least 25 percent of the Federal funds
19 made available to the State for the revolv-
20 ing loan program.

21 “(ii) ADMINISTRATION.—The State
22 shall—

23 “(I) provide matching funds in
24 the form of cash, in-kind administra-

1 tive services, or technical assistance;
2 and

3 “(II) establish procedures to en-
4 sure accountability for the use of Fed-
5 eral funds.

6 “(H) LOAN FUNDING DISTRIBUTION.—

7 “(i) FORMULA.—Not later than 180
8 days after the date of enactment of this
9 section, the Secretary, in consultation with
10 State Foresters, shall—

11 “(I) establish a formula under
12 which Federal funds shall be distrib-
13 uted under this section among eligible
14 States; and

15 “(II) submit to Congress a report
16 on the formula (including the method-
17 ology used to establish the formula).

18 “(ii) BASIS.—The formula shall—

19 “(I) be based on maximizing the
20 potential for meeting the objectives of
21 this section;

22 “(II) consider—

23 “(aa) the acreage of un-
24 stocked or under-producing pri-
25 vate forest land in each State;

1 “(bb) the potential produc-
2 tivity of the land;

3 “(cc) the potential long-term
4 carbon storage of the land;

5 “(dd) the potential to
6 achieve other environmental ben-
7 efits;

8 “(ee) the number of owners
9 eligible for loans under this sec-
10 tion in each State; and

11 “(ff) the need for reforest-
12 ation, timber stand improvement,
13 or other forestry investments
14 consistent with the objectives of
15 this section; and

16 “(III) provide a priority to States
17 that have experienced or are expected
18 to experience significant declines in
19 employment levels in the forestry in-
20 dustry because of declining timber
21 harvests on Federal land.

22 “(I) PRIVATE FUNDING.—A revolving loan
23 fund may accept and distribute as loans any
24 funds provided by nongovernmental organiza-
25 tions or persons to carry out this section.

1 “(J) BONNEVILLE POWER ADMINISTRA-
2 TION.—

3 “(i) IN GENERAL.—The States of
4 Washington, Oregon, Idaho, and Montana
5 may apply for funding from the Bonneville
6 Power Administration for purposes of
7 funding loans that meet—

8 “(I) the objectives of this section;
9 and

10 “(II) the fish and wildlife objec-
11 tives of the Bonneville Power Admin-
12 istration under the Pacific Northwest
13 Electric Power Planning and Con-
14 servation Act (16 U.S.C. 839 et seq.).

15 “(ii) APPLICATION OF REQUIREMENTS
16 UNDER OTHER LAW.—An application
17 under clause (i) shall be subject to all rules
18 and procedures established by the—

19 “(I) Pacific Northwest Electric
20 Power and Conservation Planning
21 Council; and

22 “(II) the Bonneville Power Ad-
23 ministration under the Pacific North-
24 west Electric Power Planning and

1 Conservation Act (16 U.S.C. 839 et
2 seq.).

3 “(3) ELIGIBLE FORESTRY CARBON ACTIVI-
4 TIES.—

5 “(A) IN GENERAL.—An owner may use a
6 loan or other funds provided under this section
7 to carry out eligible forestry carbon activities
8 (as determined by the Secretary) that—

9 “(i)(I) help restore under-producing
10 or understocked forest land;

11 “(II) provide for protection of forests
12 from nonforest use; or

13 “(III) allow a variety of sustainable
14 management alternatives; and

15 “(ii) have no net negative impact on
16 watersheds and fish and wildlife habitats.

17 “(B) ASSISTANCE.—The Secretary, in col-
18 laboration with State Foresters, shall provide
19 guidance on eligible forestry carbon activities
20 under this subsection.

21 “(C) APPLICATION OF OTHER LAWS.—
22 Funding shall not be provided under this sec-
23 tion for activities required under other applica-
24 ble Federal, State, or local laws.

1 “(D) PRE-AGREEMENT ACTIVITIES.—
 2 Funding shall not be provided for costs in-
 3 curred before entering into a cooperative agree-
 4 ment or loan agreement under this section.

5 “(E) LIMITATION ON LAND CONSIDERED
 6 FOR FUNDING.—No owner shall enter into a
 7 loan agreement under this section to fund refor-
 8 estation of land harvested after the date of en-
 9 actment of this section if the owner received
 10 revenues from the harvest that are sufficient to
 11 reforest the land.

12 “(F) ELIGIBLE TREE SPECIES.—

13 “(i) INVASIVE SPECIES.—Selection of
 14 tree species for loan projects under this
 15 paragraph shall be consistent with Execu-
 16 tive Order No. 13112 (42 U.S.C. 4321
 17 note).

18 “(ii) PROGRAM FUNDING.—Funding
 19 for reforestation activities under this sec-
 20 tion may be provided for—

21 “(I) tree species native to a re-
 22 gion;

23 “(II) tree species that formerly
 24 occupied the site; or

1 “(III) nonnative tree species or
2 hybrids that are noninvasive.

3 “(G) FOREST-MANAGEMENT PLAN.—Pri-
4 ority shall be provided under this section to
5 projects on land under a forestry management
6 plan or forest stewardship plan that is con-
7 sistent with the objectives of the carbon storage
8 program.

9 “(H) USE OF FUNDS.—

10 “(i) PERMITTED USES.—Funds under
11 this section may be used to—

12 “(I) pay the cost of purchasing
13 and planting tree seedlings; and

14 “(II) pay other costs associated
15 with the planted trees, including the
16 cost of—

17 “(aa) planning;

18 “(bb) site preparation;

19 “(cc) forest management;

20 “(dd) monitoring;

21 “(ee) measurement and
22 verification; and

23 “(ff) consultant and con-
24 tractor fees.

1 “(ii) PROHIBITED USES.—Funds
2 under this section shall not be used to—

3 “(I) pay for the labor of the
4 owner; or

5 “(II) purchase capital items or
6 expendable items, such as vehicles,
7 tools, and other equipment.

8 “(I) AMOUNT OF FINANCIAL ASSIST-
9 ANCE.—The amount of financial assistance pro-
10 vided to an owner under this section shall not
11 exceed—

12 “(i) 100 percent of total project costs
13 of the owner, including funds received from
14 any other source; or

15 “(ii) \$100,000 during any 2-year pe-
16 riod.

17 “(J) FEDERAL FUNDING.—During fiscal
18 years 2001 through 2010, civil penalties col-
19 lected under section 113 of the Clean Air Act
20 (42 U.S.C. 7413) and under section 309(d) of
21 the Federal Water Pollution Control Act (33
22 U.S.C. 1319(d)) shall be available, without fur-
23 ther act of appropriation, to fund cooperative
24 agreements and revolving loan funds authorized
25 under this section.

1 “(4) ALLOCATION OF FUNDS.—The Secretary
2 shall allocate—

3 “(A) not less than 15 percent of available
4 funds for cooperative agreements described in
5 paragraph (1); and

6 “(B) after determining that States have
7 implemented a system to administer loans made
8 under paragraph (2) in accordance with this
9 section, 85 percent of available funds for State
10 revolving loan programs.”.

11 **TITLE III—CARBON** 12 **SEQUESTRATION PROGRAM**

13 **SEC. 301. ESTABLISHMENT.**

14 Subtitle D of title XII of the Food Security Act of
15 1985 (16 U.S.C. 3830 et seq.) is amended by inserting
16 after chapter 1 the following:

17 **“CHAPTER 2—CARBON SEQUESTRATION** 18 **PROGRAM**

19 **“SEC. 1238. CARBON SEQUESTRATION PROGRAM.**

20 “(a) IN GENERAL.—Effective beginning with the
21 2002 calendar year, the Secretary, acting through the
22 Chief of the Natural Resources Conservation Service, shall
23 establish a carbon sequestration program to permit owners
24 and operators of land located in the United States to en-

1 roll the land in the program to increase the sequestration
2 of carbon.

3 “(b) ELIGIBLE LAND.—

4 “(1) IN GENERAL.—Except as provided in para-
5 graph (2), the Secretary may include in the program
6 established under this chapter any land, as deter-
7 mined by the Secretary.

8 “(2) CONSERVATION RESERVE LAND AND WET-
9 LANDS RESERVE LAND.—The Secretary may include
10 in the carbon sequestration program land that is en-
11 rolled in the conservation reserve program or the
12 wetlands reserve program established under sub-
13 chapters B and C, respectively, of chapter 1, if the
14 owner or operator of the land has not received any
15 payments under the program for the implementation
16 of carbon sequestration measures on the land.

17 “(c) MAXIMUM ENROLLMENT.—The Secretary may
18 maintain up to 20,000,000 acres of land in the United
19 States in the carbon sequestration program at any 1 time
20 during a calendar year.

21 “(d) DURATION OF CONTRACT.—

22 “(1) IN GENERAL.—For the purpose of car-
23 rying out this chapter, the Secretary shall enter into
24 contracts of not less than 10 years.

1 “(2) CERTAIN LAND.—In the case of land de-
 2 voted to hardwood trees, shelterbelts, windbreaks, or
 3 wildlife corridors under a contract entered into
 4 under this chapter, the owner or operator of the
 5 land may, within the limitations prescribed under
 6 this section, specify the duration of the contract.

7 **“SEC. 1238A. CARBON SEQUESTRATION PRACTICES.**

8 “(a) CRITERIA FOR EVALUATING CARBON SEQUES-
 9 TRATION PRACTICES.—

10 “(1) IN GENERAL.—The Carbon Advisory
 11 Council established under section 1610(b) of the En-
 12 ergy Policy Act of 1992 shall develop, and propose
 13 to the Secretary, criteria for determining the accept-
 14 ability of, and evaluating, practices by owners and
 15 operators that will increase the sequestration of car-
 16 bon for the purposes of determining the acceptability
 17 of contract offers made by the owners and operators.

18 “(2) CONTENT.—The criteria shall address—

19 “(A) forest preservation and restoration
 20 and afforestation;

21 “(B) biodiversity enhancement;

22 “(C) the use of acreage to produce high-
 23 storage crops;

24 “(D) soil erosion management;

25 “(E) soil fertility restoration;

1 “(F) wetland restoration;

2 “(G) no-till farming practices;

3 “(H) conservation buffers;

4 “(I) improved cropping systems with win-
5 ter cover crops; and

6 “(J) any other conservation practices that
7 the Secretary determines to be appropriate for
8 increasing carbon sequestration.

9 “(3) REGULATIONS.—The Secretary, acting
10 through the Chief of the Natural Resources Con-
11 servation Service and the Chief of the Forest Serv-
12 ice, by regulation, shall establish criteria described
13 in paragraphs (1) and (2).

14 “(b) ACCEPTABILITY OF CARBON SEQUESTRATION
15 PRACTICES.—

16 “(1) IN GENERAL.—As part of a contract offer
17 accepted under this chapter, the owner or operator
18 shall agree to carry out on land enrolled in the pro-
19 gram established under this chapter carbon seques-
20 tration practices proposed by the owner or operator
21 that (as determined by the Secretary)—

22 “(A) provide for additional sequestration
23 beyond that which would be provided in the ab-
24 sence of enrollment of the land in the program;
25 and

1 “(B) contribute to a positive reduction of
2 greenhouse gases in the atmosphere through se-
3 questration over at least a 10-year period.

4 “(2) MAXIMUM SEQUESTRATION BENEFITS.—In
5 determining the acceptability of contract offers, the
6 Secretary shall take into consideration the extent to
7 which enrollment of the land that is the subject of
8 the contract offer would provide the maximum se-
9 questration benefits under the criteria developed
10 under subsection (a).

11 “(c) COMPLIANCE WITH CARBON SEQUESTRATION
12 CONTRACTS.—

13 “(1) IN GENERAL.—As part of a contract offer
14 accepted under this chapter, an owner or operator of
15 land shall permit the Secretary to verify that the
16 owner or operator is implementing practices that se-
17 quester carbon in accordance with the contract, in-
18 cluding an actual verification of the practices at
19 least once every 5 years and such random inspec-
20 tions as are necessary.

21 “(2) FRAUD OR FALSE STATEMENTS.—Section
22 1001 of title 18, United States Code, shall apply to
23 a statement, representation, writing, or document
24 provided by an owner or operator under this sub-
25 section.

1 “(3) CONFIDENTIALITY.—Information provided
2 by an owner or operator under this subsection shall
3 be considered to be confidential information for the
4 purposes of section 552(b)(4) of title 5, United
5 States Code.

6 “(d) MONITORING.—The Secretary, in consultation
7 with the Administrator of the Energy Information Admin-
8 istration, shall develop forms to monitor sequestration im-
9 provements made as a result of the program established
10 under this chapter and distribute the forms to owners and
11 operators of land enrolled in the program.

12 “(e) EDUCATIONAL OUTREACH.—In consultation
13 with the Consortium for Agricultural Soils Mitigation of
14 Greenhouse Gases, the Secretary, acting through the Ex-
15 tension Service, shall conduct an educational outreach pro-
16 gram to collect and disseminate to owners and operators
17 of land research-based information on agricultural prac-
18 tices that will increase the sequestration of carbon, while
19 preserving the social and economic well-being of the own-
20 ers and operators.

21 **“SEC. 1238B. DUTIES OF OWNERS AND OPERATORS.**

22 “(a) IN GENERAL.—Under the terms of a contract
23 entered into under this chapter, during the term of the
24 contract, an owner or operator of a farm or ranch shall
25 agree—

1 “(1) to implement a plan approved by the Sec-
2 retary for carrying out on land subject to the con-
3 tract practices that will increase the sequestration of
4 carbon, substantially in accordance with a schedule,
5 covering a period of not less than 10 years, that is
6 outlined in the plan;

7 “(2) to place land subject to the contract in the
8 carbon sequestration program established under this
9 chapter;

10 “(3) in addition to the remedies provided under
11 section 1238F(d), on the violation of a term or con-
12 dition of the contract at any time at which the
13 owner or operator has control of the land—

14 “(A) to forfeit all rights to receive rental
15 payments and cost-sharing payments under the
16 contract and to refund to the Secretary any
17 rental payments and cost-sharing payments re-
18 ceived by the owner or operator under the con-
19 tract, and interest on the payments as deter-
20 mined by the Secretary, if the Secretary deter-
21 mines that the violation is of such nature as
22 to warrant termination of the contract; or

23 “(B) to refund to the Secretary, or accept
24 adjustments to, the rental payments and cost-
25 sharing payments provided to the owner or op-

1 erator, as the Secretary considers appropriate,
2 if the Secretary determines that the violation
3 does not warrant termination of the contract;

4 “(4) on the transfer of the right and interest of
5 the owner or operator in land subject to the
6 contract—

7 “(A)(i) to forfeit all rights to rental pay-
8 ments and cost-sharing payments under the
9 contract; and

10 “(ii) to refund to the United States all
11 rental payments and cost-sharing payments re-
12 ceived by the owner or operator, or accept such
13 payment adjustments or make such refunds as
14 the Secretary considers appropriate and con-
15 sistent with the objectives of this chapter; un-
16 less

17 “(B)(i) the transferee of the land agrees
18 with the Secretary to assume all obligations of
19 the contract;

20 “(ii) the land is purchased by or for the
21 United States Fish and Wildlife Service; or

22 “(iii) the transferee and the Secretary
23 agree to modifications to the contract that are
24 consistent with the objectives of the program,
25 as determined by the Secretary;

1 “(5) not to adopt any practice specified by the
2 Secretary in the contract as a practice that would
3 tend to defeat the purposes of this chapter; and

4 “(6) to comply with such additional provisions
5 as the Secretary determines are desirable and are in-
6 cluded in the contract to carry out this chapter or
7 to facilitate the practical administration of this
8 chapter.

9 “(b) PLAN.—The plan referred to in subsection
10 (a)(1)—

11 “(1) shall specify the carbon sequestration prac-
12 tices to be carried out by the owner or operator dur-
13 ing the term of the contract; and

14 “(2) may provide for the permanent retirement
15 of any existing cropland base and allotment history
16 for the land.

17 “(c) FORECLOSURE.—

18 “(1) IN GENERAL.—Notwithstanding any other
19 provision of law, an owner or operator that is a
20 party to a contract entered into under this chapter
21 may not be required to make repayments to the Sec-
22 retary of amounts received under the contract if—

23 “(A) the land that is subject to the con-
24 tract has been foreclosed on; and

1 “(B) the Secretary determines that for-
 2 giving the repayments is appropriate in order to
 3 provide fair and equitable treatment.

4 “(2) RESUMPTION OF CONTROL.—

5 “(A) IN GENERAL.—This subsection shall
 6 not void the responsibilities of such an owner or
 7 operator under the contract if the owner or op-
 8 erator resumes control over the land that is
 9 subject to the contract within the period speci-
 10 fied in the contract.

11 “(B) CONTRACT APPLICABILITY.—On the
 12 resumption of the control over the land by the
 13 owner or operator, the provisions of the con-
 14 tract in effect on the date of the foreclosure
 15 shall apply.

16 **“SEC. 1238C. DUTIES OF THE SECRETARY.**

17 “‘In return for a contract entered into by an owner
 18 or operator under section 1238B, the Secretary shall—

19 “(1) share the cost of carrying out on the land
 20 carbon sequestration practices specified in the con-
 21 tract for which the Secretary determines that cost
 22 sharing is appropriate and in the public interest;

23 “(2) for a period of years not in excess of the
 24 term of the contract, pay an annual rental payment
 25 in an amount necessary to compensate for—

1 “(A) the use of carbon sequestration prac-
2 tices on the land; and

3 “(B) the retirement of any cropland base
4 and allotment history that the owner or oper-
5 ator agrees to retire permanently; and

6 “(3) provide conservation technical assistance
7 to assist the owner or operator in carrying out the
8 contract.

9 **“SEC. 1238D. PAYMENTS.**

10 “(a) TIME OF PAYMENT.—The Secretary shall pro-
11 vide payment for obligations incurred by the Secretary
12 under a contract entered into under this chapter—

13 “(1) with respect to any cost-sharing payment
14 obligation incurred by the Secretary, as soon as
15 practicable after the obligation is incurred; and

16 “(2) with respect to any annual rental payment
17 obligation incurred by the Secretary—

18 “(A) as soon as practicable after October
19 1 of each calendar year; or

20 “(B) at the option of the Secretary, at any
21 time before that date during the year in which
22 the obligation is incurred.

23 “(b) COST-SHARING PAYMENTS.—

24 “(1) IN GENERAL.—In making cost-sharing
25 payments to an owner or operator under a contract

1 entered into under this chapter, the Secretary shall
2 pay not more than 50 percent of the cost of carrying
3 out carbon sequestration practices required under
4 the contract for which the Secretary determines that
5 cost-sharing is appropriate and in the public inter-
6 est.

7 “(2) MAXIMUM AMOUNT.—The Secretary shall
8 not make any payment under this chapter to the ex-
9 tent that the total amount of cost-sharing payments
10 provided to an owner or operator for carbon seques-
11 tration practices from all sources would exceed 100
12 percent of the total cost of carrying out the prac-
13 tices.

14 “(3) OTHER FEDERAL ASSISTANCE.—An owner
15 or operator shall not be eligible to receive or retain
16 cost-share assistance for land under this subsection
17 if the owner or operator receives any other Federal
18 cost-share assistance under this subsection with re-
19 spect to the land under any other provision of law.

20 “(c) RENTAL PAYMENTS.—

21 “(1) IN GENERAL.—In determining the amount
22 of annual rental payments to be paid to owners and
23 operators for carrying out carbon sequestration
24 practices, the Secretary may consider, among other
25 factors, the amount necessary to encourage owners

1 or operators of land to participate in the program
2 established by this chapter.

3 “(2) BIDS OR OTHER MEANS.—The amounts
4 payable to owners or operators in the form of rental
5 payments under contracts entered into under this
6 chapter may be determined through—

7 “(A) the submission of bids for such con-
8 tracts by owners and operators in such manner
9 as the Secretary may prescribe; or

10 “(B) such other means as the Secretary
11 determines are appropriate.

12 “(3) FACTORS.—In determining the accept-
13 ability of contract offers, the Secretary—

14 “(A) shall take into consideration the ex-
15 tent to which enrollment of the land that is the
16 subject of the contract offer would increase the
17 sequestration of carbon in accordance with sec-
18 tion 1238A;

19 “(B) may take into consideration the ex-
20 tent to which enrollment of the land that is the
21 subject of the contract offer would improve soil
22 resources, water quality, or wildlife habitat, or
23 provide other environmental benefits; and

24 “(C) may establish different criteria in
25 various States and regions of the United States

1 based on the extent to which the sequestration
2 of carbon, water quality, or wildlife habitat may
3 be improved or erosion may be abated.

4 “(d) FORM OF PAYMENT.—

5 “(1) IN GENERAL.—Except as otherwise pro-
6 vided in this section, payments under this chapter—

7 “(A) shall be made in cash or in the form
8 of in-kind commodities in such amount and on
9 such time schedule as is agreed on by the owner
10 or operator and specified in the contract; and

11 “(B) may be made in advance of deter-
12 mination of performance.

13 “(2) IN-KIND COMMODITIES.—If the payment is
14 made with in-kind commodities, the payment shall
15 be made by the Commodity Credit Corporation—

16 “(A) by delivery of the commodity involved
17 to the owner or operator at a warehouse or
18 other similar facility located in the county in
19 which the land subject to the contract is located
20 or at such other location as is agreed to by the
21 Secretary and the owner or operator;

22 “(B) by the transfer of negotiable ware-
23 house receipts; or

24 “(C) by such other method, including the
25 sale of the commodity in commercial markets,

1 as is determined by the Secretary to be appro-
2 priate to enable the owner or operator to receive
3 efficient and expeditious possession of the com-
4 modity.

5 “(3) SUBSTITUTION IN CASH.—If stocks of a
6 commodity acquired by the Commodity Credit Cor-
7 poration are not readily available to make full pay-
8 ment in kind to the owner or operator, the Secretary
9 may substitute full or partial payment in cash for
10 payment in kind.

11 “(4) STATE CARBON SEQUESTRATION PRO-
12 GRAM.—Payments to an owner or operator under a
13 special carbon sequestration program described in
14 subsection (f)(4) shall be in the form of cash only.

15 “(e) PAYMENT TO OTHERS.—If an owner or operator
16 that is entitled to a payment under a contract entered into
17 under this chapter dies, becomes incompetent, is otherwise
18 unable to receive a payment under this chapter, or is suc-
19 ceeded by another person that renders or completes the
20 required performance, the Secretary shall make the pay-
21 ment, in accordance with regulations promulgated by the
22 Secretary and without regard to any other provision of
23 law, in such manner as the Secretary determines is fair
24 and reasonable in light of all the circumstances.

25 “(f) PAYMENT LIMITATIONS.—

1 “(1) TOTAL AMOUNT.—The total amount of
 2 rental payments, including rental payments made in
 3 the form of in-kind commodities, made to a person
 4 under this chapter for any fiscal year may not ex-
 5 ceed \$50,000.

6 “(2) AMOUNT PER ACRE.—The amount of rent-
 7 al payments made to a person under this chapter for
 8 any fiscal year may not exceed \$20 per acre.

9 “(3) REGULATIONS.—

10 “(A) IN GENERAL.—The Secretary shall
 11 issue regulations—

12 “(i) defining the term ‘person’ as used
 13 in this subsection; and

14 “(ii) prescribing such rules as the Sec-
 15 retary determines are necessary to ensure
 16 a fair and reasonable application of the
 17 limitation contained in this subsection.

18 “(B) CORPORATIONS.—The regulations
 19 issued by the Secretary on December 18, 1970,
 20 under section 101 of the Agricultural Act of
 21 1970 (7 U.S.C. 1307) shall be used to deter-
 22 mine whether corporations and their stock-
 23 holders may be considered to be separate per-
 24 sons under this subsection.

1 “(4) OTHER PAYMENTS.—Rental payments re-
 2 ceived by an owner or operator shall be in addition
 3 to, and shall not affect, the total amount of pay-
 4 ments that the owner or operator is otherwise eligi-
 5 ble to receive under—

6 “(A) the Federal Agriculture Improvement
 7 and Reform Act of 1996 (Public Law 104–
 8 127), including the Agricultural Market Transi-
 9 tion Act (7 U.S.C. 7201 et seq.);

10 “(B) the Food, Agriculture, Conservation,
 11 and Trade Act of 1990 (Public Law 101–624);
 12 or

13 “(C) the Agricultural Act of 1949 (7
 14 U.S.C. 1421 et seq.).

15 “(5) STATE CARBON SEQUESTRATION PRO-
 16 GRAM.—

17 “(A) IN GENERAL.—This subsection and
 18 section 1305(f) of the Agricultural Reconcili-
 19 ation Act of 1987 (7 U.S.C. 1308 note; Public
 20 Law 100–203) shall not be applicable to pay-
 21 ments received by a State, political subdivision,
 22 or agency of a State or political subdivision in
 23 connection with agreements entered into under
 24 a special carbon sequestration program carried

1 out by that entity that has been approved by
2 the Secretary.

3 “(B) PAYMENTS TO STATES AND POLIT-
4 ICAL SUBDIVISIONS.—The Secretary may enter
5 into such agreements for payments to States,
6 political subdivisions, or agencies of States or
7 political subdivisions as the Secretary deter-
8 mines will advance the purposes of this chapter.

9 “(g) EXEMPTION FROM AUTOMATIC SEQUESTER.—
10 Notwithstanding any other provision of law, no order
11 issued for any fiscal year under section 252 of the Bal-
12 anced Budget and Emergency Deficit Control Act of 1985
13 (2 U.S.C. 902) shall affect any payment under this chap-
14 ter.

15 “(h) OTHER ASSISTANCE.—In addition to any pay-
16 ment under this chapter, an owner or operator may receive
17 cost-share assistance, rental payments, or tax benefits
18 from a State or political subdivision of a State for enroll-
19 ing land in the carbon sequestration program.

20 “(i) TREATMENT OF PAYMENTS.—Payments received
21 by an owner or operator under this chapter shall be con-
22 sidered rentals from real estate for the purposes of section
23 1402(a)(1) of the Internal Revenue Code of 1986.

1 **“SEC. 1238E. CHANGES IN OWNERSHIP; MODIFICATION OR**
2 **TERMINATION OF CONTRACTS.**

3 “(a) CHANGES IN OWNERSHIP.—

4 “(1) IN GENERAL.—Subject to paragraphs (2)
5 and (3), no contract shall be entered into under this
6 chapter concerning land with respect to which the
7 ownership has changed in the 1-year period pre-
8 ceding the first year of the contract period unless—

9 “(A) the new ownership was acquired by
10 will or succession as a result of the death of the
11 previous owner;

12 “(B) the new ownership was acquired be-
13 fore April 1, 2001;

14 “(C) the Secretary determines that the
15 land was acquired under circumstances that
16 give adequate assurances that the land was not
17 acquired for the purpose of enrolling the land in
18 the carbon sequestration program; or

19 “(D) the ownership change occurred be-
20 cause of foreclosure on the land and the owner
21 of the land immediately before the foreclosure
22 exercises a right of redemption from the mort-
23 gage holder in accordance with State law.

24 “(2) LIMITATIONS.—Paragraph (1) shall not—

1 “(A) prohibit the continuation of an agree-
 2 ment by a new owner after an agreement has
 3 been entered into under this chapter; or

4 “(B) require a person to own the land as
 5 a condition of eligibility for entering into the
 6 contract if the person—

7 “(i) has operated the land to be cov-
 8 ered by a contract under this section for at
 9 least 1 year preceding the later of—

10 “(I) the date of the contract; or

11 “(II) April 1, 2001; and

12 “(ii) controls the land for the contract
 13 period.

14 “(3) OPTIONS FOR NEW OWNER OR OPER-
 15 ATOR.—If, during the term of a contract entered
 16 into under this chapter, an owner or operator of
 17 land subject to the contract sells or otherwise trans-
 18 fers the ownership or right of occupancy of the land,
 19 the new owner or operator of the land may—

20 “(A) continue the contract under the same
 21 terms or conditions;

22 “(B) enter into a new contract in accord-
 23 ance with this chapter; or

24 “(C) elect not to participate in the pro-
 25 gram established by this chapter.

1 “(b) MODIFICATION OF CONTRACTS.—The Secretary
2 may modify a contract entered into with an owner or oper-
3 ator under this chapter if—

4 “(1) the owner or operator agrees to the modi-
5 fication; and

6 “(2) the Secretary determines that the modi-
7 fication is desirable—

8 “(A) to carry out this chapter;

9 “(B) to facilitate the practical administra-
10 tion of this chapter; or

11 “(C) to achieve such other goals as the
12 Secretary determines are appropriate, con-
13 sistent with this chapter.

14 “(c) TERMINATION OF CONTRACTS.—

15 “(1) IN GENERAL.—The Secretary may termi-
16 nate a contract entered into with an owner or oper-
17 ator under this chapter if—

18 “(A) the owner or operator agrees to the
19 termination; and

20 “(B) the Secretary determines that the ter-
21 mination would be in the public interest.

22 “(2) CONGRESSIONAL NOTICE.—Not later than
23 90 days before taking any action to terminate under
24 paragraph (1) a contract entered into under this
25 chapter, the Secretary shall provide to the Com-

1 mittee on Agriculture of the House of Representa-
2 tives and the Committee on Agriculture, Nutrition,
3 and Forestry of the Senate written notice of the ac-
4 tion.

5 **“SEC. 1238F. BASE HISTORY.**

6 “(a) IN GENERAL.—A reduction, based on a ratio be-
7 tween the total cropland acreage on the farm and the acre-
8 age placed in the carbon sequestration program authorized
9 by this chapter, as determined by the Secretary, shall be
10 made during the period of the contract, in the aggregate,
11 in crop bases, quotas, and allotments on the farm with
12 respect to crops for which there is a production adjust-
13 ment program.

14 “(b) PRESERVATION OF BASE AND ALLOTMENT HIS-
15 TORY.—Notwithstanding sections 1211 and 1221, the
16 Secretary, by regulation, may provide for preservation of
17 cropland base and allotment history applicable to acreage
18 on which carbon sequestration practices are carried out
19 under this section, for the purpose of any Federal program
20 under which the history is used as a basis for participation
21 in the program or for an allotment or other limitation in
22 the program, unless the owner and operator agree under
23 the contract to retire permanently that cropland base and
24 allotment history.

1 “(c) EXTENSION OF BASE AND ALLOTMENT HIS-
2 TORY.—

3 “(1) IN GENERAL.—The Secretary shall offer
4 the owner or operator of a farm or ranch an oppor-
5 tunity to extend the preservation of cropland base
6 and allotment history under subsection (b) for such
7 time as the Secretary determines is appropriate after
8 the expiration date of a contract under this chapter
9 at the request of the owner or operator.

10 “(2) CONDITIONS.—In return for the extension,
11 the owner or operator shall agree to continue to
12 abide by the terms and conditions of the original
13 contract, except that the owner or operator shall re-
14 ceive no additional cost share, annual rental, or
15 bonus payment.

16 “(d) VIOLATION OF CONTRACTS.—In addition to any
17 other remedy prescribed by law, the Secretary may reduce
18 or terminate the quantity of cropland base and allotment
19 history preserved under this section for acreage with re-
20 spect to which there has occurred a violation of a term
21 or condition of a contract entered into under this chapter.

22 **“SEC. 1238G. CARBON MONITORING PILOT PROGRAMS.**

23 “(a) ESTABLISHMENT.—

24 “(1) IN GENERAL.—The Secretary, in coopera-
25 tion with the Consortium for Agricultural Soils Miti-

gation of Greenhouse Gases, shall carry out 4 or more pilot programs to develop, demonstrate, and verify the best management practices for carbon monitoring on agricultural land.

“(2) CRITERIA.—The Secretary shall select pilot programs based on—

“(A) the merit of the proposed program;

and

“(B) the diversity of soil sequestration types available at the site of the proposed program.

“(b) REQUIREMENTS.—Pilot programs carried out under this section shall—

“(1) involve agricultural producers in the development and verification of best management practices for carbon monitoring on agricultural land;

“(2) involve research and testing of the best management practices in various soil types and climatic zones;

“(3) analyze the effects of the adoption of the best management practices on watershed levels; and

“(4) use the results of the research conducted under the program to—

“(A) encourage agricultural producers to adopt the best management practices;

1 “(B) analyze the economic impact of the
2 best management practices; and

3 “(C) develop the best management prac-
4 tices on a regional basis for watersheds and
5 States not participating in the pilot programs.

6 **“SEC. 1238H. FUNDING.**

7 “The Secretary shall use to carry out this chapter
8 (including to pay administrative costs incurred by the Nat-
9 ural Resources Conservation Service in carrying out this
10 chapter)—

11 “(1) funds of the Commodity Credit Corpora-
12 tion made available under section 1241(a)(3); and

13 “(2) at the option of, and transfer by, another
14 Federal agency, funds of the agency that are avail-
15 able to the agency for climate change initiatives or
16 greenhouse gas emission reductions.”.

17 **SEC. 302. FUNDING.**

18 Section 1241(a)(3) of the Food Security Act of 1985
19 (16 U.S.C. 3841(a)(3)) is amended by striking “chapter
20 4” and inserting “chapters 2 and 4”.

21 **SEC. 303. REGULATIONS.**

22 (a) PROPOSED REGULATIONS.—Not later than 180
23 days after the date of enactment of this title, the Secretary
24 of Agriculture shall publish in the Federal Register pro-

1 posed regulations for carrying out this title and the
2 amendments made by this title.

3 (b) FINAL REGULATIONS.—Not later than 60 days
4 after the date of publication of the proposed regulations,
5 the Secretary shall promulgate final regulations for car-
6 rying out this title and the amendments made by this title.

7 **SEC. 304. EFFECTIVE DATES.**

8 (a) IN GENERAL.—Except as provided in subsection
9 (b), this title and the amendments made by this title take
10 effect on January 1, 2002.

11 (b) REGULATIONS.—Section 203 takes effect on the
12 date of enactment of this title.

13 **TITLE IV—REPORTS**

14 **SEC. 401. INITIAL REPORT.**

15 (a) IN GENERAL.—Not later than 1 year after the
16 date of enactment of this Act, the Secretary of Energy,
17 in consultation with the Secretary of Agriculture and other
18 appropriate Federal agencies, shall submit to Congress a
19 report on—

20 (1) the quantity of carbon contained in the for-
21 est carbon reservoir of the National Forest System
22 and the methodology and assumptions used to deter-
23 mine that quantity;

24 (2) the potential to increase the quantity of car-
25 bon in the National Forest System and provide posi-

1 tive impacts on watersheds and fish and wildlife
2 habitats through forest management actions;

3 (3) the role of forests in the carbon cycle; and

4 (4) the contributions of United States forestry
5 to the global carbon budget.

6 (b) CONTENTS.—The report shall include an assess-
7 ment of the impact of forest management actions on tim-
8 ber harvests, wildlife habitat, recreation, forest health, and
9 other statutory objectives of National Forest System man-
10 agement.

11 **SEC. 402. ANNUAL REPORT.**

12 (a) IN GENERAL.—The Secretary of Agriculture, act-
13 ing through the Chief of the Forest Service, and the Sec-
14 retary of Energy shall jointly submit an annual report on
15 the results of the carbon storage program under section
16 2404(b) of the Global Climate Change Prevention Act of
17 1990 and carbon sequestration program under section
18 1238 of the Food Security Act of 1985 to—

19 (1) the Committee on Agriculture of the House
20 of Representatives;

21 (2) the Committee on Agriculture, Nutrition,
22 and Forestry of the Senate;

23 (3) the Committee on Resources of the House
24 of Representatives; and

1 (4) the Committee on Energy and Natural Re-
2 sources of the Senate.

3 (b) GUIDELINES.—The Secretary of Agriculture, in
4 consultation with the Carbon Advisory Council established
5 under section 1610(b) of the Energy Policy Act of 1992,
6 shall develop guidelines for the annual report that—

7 (1) require a statement of the quantity of car-
8 bon storage realized;

9 (2) include the data used to monitor and verify
10 the carbon storage;

11 (3) are consistent with reporting requirements
12 of the Energy Information Administration; and

13 (4) prevent soil carbon and forest carbon man-
14 agement actions from being counted twice.

15 (c) CONTENTS.—The report shall include—

16 (1) the information required by the guidelines
17 developed under section 1610(h) of the Energy Pol-
18 icy Act of 1992;

19 (2) an assessment of the effectiveness of carbon
20 monitoring and verification;

21 (3) a report on carbon activities associated with
22 cooperative agreements for the forest carbon pro-
23 gram under section 2404(b)(1) of the Global Climate
24 Change Prevention Act of 1990;

1 (4) a State forest carbon program compliance
2 report established by—

3 (A) reviewing reports submitted by States
4 under section 403;

5 (B) verifying compliance with the guide-
6 lines developed under subsection 1610(h) of the
7 Energy Policy Act of 1992;

8 (C) notifying the State of compliance sta-
9 tus;

10 (D) notifying the State of any corrections
11 that are needed to attain compliance; and

12 (E) establishing an opportunity for resub-
13 mission by the State; and

14 (5) an assessment of the effectiveness of the
15 carbon sequestration program established under sec-
16 tion 1238 of the Food Security Act of 1985, includ-
17 ing a report on—

18 (A) sequestration improvements made as a
19 result of the carbon sequestration program;

20 (B) sequestration practices on land en-
21 rolled in the carbon sequestration program; and

22 (C) compliance with contracts entered into
23 under the carbon sequestration program.

1 **SEC. 403. STATE REPORT.**

2 Entities participating in cooperative agreements for
3 forest carbon programs under section 2404(b)(1) of the
4 Global Climate Change Prevention Act of 1990, and
5 States receiving assistance to establish a revolving loan
6 fund under section 2404(b)(2) of that Act, shall—

7 (1) monitor and verify carbon storage achieved
8 under the forest carbon program in accordance with
9 guidelines developed under section 1610(h)(2) of the
10 Energy Policy Act of 1992; and

11 (2) submit an annual report on the results of
12 the carbon storage program to—

13 (A) the Secretary of Agriculture; and

14 (B) any nongovernmental organization or
15 person that provides funding for the carbon
16 storage program.

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