

105TH CONGRESS  
2D SESSION

# H. R. 3766

To streamline, modernize, and enhance the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 1998

Mr. CANADY of Florida introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committees on the Judiciary, Resources, and Ways and Means, 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

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## A BILL

To streamline, modernize, and enhance the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes.

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 AND TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Plant Protection Act”.

6       (b) **TABLE OF CONTENTS.**—

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

- Sec. 101. Plant pests.
- Sec. 102. Restrictions on movement: Plants, plant products, biological control organisms, articles, noxious weeds and means of conveyance.
- Sec. 103. Notification of arrival and inspection before movement: Plants, plant products, biological control organisms, plant pests, noxious weeds, articles, means of conveyance.
- Sec. 104. Remedial measures or disposal for plant pests or noxious weeds: Extraordinary emergency.
- Sec. 105. Inspections, seizures, and warrants.
- Sec. 106. Control of grasshoppers and mormon crickets.
- Sec. 107. Cooperation.
- Sec. 108. Certification for exports.
- Sec. 109. Buildings, land, people, claims, and agreements.
- Sec. 110. Reimbursable agreements.
- Sec. 111. Violations—penalties.
- Sec. 112. Enforcement.
- Sec. 113. Appropriations and transfer authority.
- Sec. 114. Regulations and orders.
- Sec. 115. Preemption.
- Sec. 116. Severability.
- Sec. 117. Repeals.

## 1 **SEC. 2. FINDINGS.**

2       The Congress finds that—

3           (1) the detection, control, eradication, suppres-  
 4       sion, prevention, or retardation of the spread of  
 5       plant pests or noxious weeds is necessary for the  
 6       protection of the agriculture, environment, and econ-  
 7       omy of the United States;

8           (2) biological control is often a desirable, low-  
 9       risk means of ridding crops and other plants of  
 10      plant pests and noxious weeds, and its use should be  
 11      facilitated by the Department of Agriculture, other  
 12      Federal agencies, and States whenever feasible;

13          (3) the smooth movement of enterable plants,  
 14      plant products, biological control organisms, or other  
 15      articles into, out of, or within the United States is

1 vital to the Nation's economy and should be facili-  
2 tated to the extent possible;

3 (4) export markets could be severely impacted  
4 by the introduction or spread of plant pests or nox-  
5 ious weeds into or within the United States;

6 (5) the unregulated movement of plant pests,  
7 noxious weeds, plants, certain biological control or-  
8 ganisms, plant products, and articles capable of har-  
9 boring plant pests or noxious weeds could present  
10 an unacceptable risk of introducing or spreading  
11 plant pests or noxious weeds;

12 (6) the existence on any premises in the United  
13 States of a plant pest or noxious weed new to or not  
14 known to be widely prevalent in or distributed within  
15 and throughout the United States could constitute a  
16 threat to crops and other plants or plant products  
17 of the United States and burden interstate com-  
18 merce or foreign commerce; and

19 (7) all plant pests, noxious weeds, plants, plant  
20 products, articles capable of harboring plant pests or  
21 noxious weeds regulated under this Act are in or af-  
22 fect interstate commerce or foreign commerce.

23 **SEC. 3. DEFINITIONS.**

24 For the purposes of this Act (unless otherwise speci-  
25 fied):

1           (1) ARTICLE.—The term “article” means any  
2 material or tangible object that could harbor pests,  
3 diseases, or noxious weeds.

4           (2) BIOLOGICAL CONTROL ORGANISM.—The  
5 term “biological control organism” means any  
6 enemy, antagonist, or competitor used to control a  
7 plant pest or noxious weed.

8           (3) ENTER.—The term “enter” means to move  
9 into the commerce of the United States.

10          (4) ENTRY.—The term “entry” means the act  
11 of movement into the commerce of the United  
12 States.

13          (5) EXPORT.—The term “export” means to  
14 move from the United States to any place outside of  
15 the United States.

16          (6) EXPORTATION.—The term “exportation”  
17 means the act of movement from the United States  
18 to any place outside the United States.

19          (7) IMPORT.—The term “import” means to  
20 move into the territorial limits of the United States.

21          (8) IMPORTATION.—The term “importation”  
22 means the act of movement into the territorial limits  
23 of the United States.

24          (9) INTERSTATE.—The term “interstate”  
25 means—

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

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

7 (10) INTERSTATE COMMERCE.—The term  
8 “interstate commerce” means trade, traffic, move-  
9 ment, or other commerce—

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

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

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

22 (12) MOVE.—

23 (A) IN GENERAL.—The term “move”  
24 means to—

1 (i) carry, enter, import, mail, ship, or  
2 transport;

3 (ii) aid, abet, cause, or induce the car-  
4 rying, entering, importing, mailing, ship-  
5 ping, or transporting;

6 (iii) offer to carry, enter, import, mail,  
7 ship, or transport;

8 (iv) receive to carry, enter, import,  
9 mail, ship, or transport; or

10 (v) allow any of the activities included  
11 within this paragraph.

12 (B) MOVEMENT AND MOVING.—The terms  
13 “movement” and “moving” shall be defined in  
14 accordance with this paragraph.

15 (13) NOXIOUS WEED.—The term “noxious  
16 weed” means any plant, seed, reproductive part, or  
17 propagative part of any plant that can be directly or  
18 indirectly injure or cause damage to crops, including  
19 nursery stock, plant products, livestock, poultry, or  
20 other interests of agriculture (including irrigation,  
21 navigation, the fish or wildlife resources of the  
22 United States, the public health, or the environ-  
23 ment).

24 (14) PERMIT.—The term “permit” means a  
25 written or oral authorization, including by electronic

1 methods, by the Secretary to move plants, plant  
2 products, biological control organisms, plant pests,  
3 noxious weeds, or articles under conditions pre-  
4 scribed by the Secretary.

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

8 (16) PLANT.—The term “plant” means any  
9 plant or plant part for or capable of propagation,  
10 including trees, tissue cultures, plantlet cultures,  
11 pollen, shrubs, vines, cuttings, grafts, scions, buds,  
12 bulbs, roots, and seeds.

13 (17) PLANT PEST.—The term “plant pest”  
14 means any living stage of a protozoan, animal, bac-  
15 teria, fungus, virus, viroid, infectious agent, or para-  
16 sitic plant that can directly or indirectly injure or  
17 cause damage to, or cause disease in any plant or  
18 plant product or any article similar to or allied with  
19 any of the articles in this paragraph.

20 (18) PLANT PRODUCT.—The term “plant prod-  
21 uct” means any flower, fruit, vegetable, root, bulb,  
22 seed, or other plant part (not included in the defini-  
23 tion of the term “plant” in paragraph (16)); or any  
24 manufactured or processed plant or plant part.

1           (19) SECRETARY.—The term “Secretary”  
 2 means the Secretary of Agriculture or any other in-  
 3 dividual to whom authority is delegated by the Sec-  
 4 retary under this Act.

5           (20) STATE.—The term “State” means any of  
 6 the several States of the United States, the Com-  
 7 monwealth of the Northern Mariana Islands, the  
 8 Commonwealth of Puerto Rico, the District of Co-  
 9 lumbia, Guam, the Virgin Islands of the United  
 10 States, or any other territory or possession of the  
 11 United States.

12           (21) THIS ACT.—

13           (A) IN GENERAL.—Except as provided in  
 14 subparagraph (B), the term “this Act” means  
 15 the Plant Protection Act and any regulation or  
 16 order issued by the Secretary under the Plant  
 17 Protection Act.

18           (B) EXCEPTION.—For the purposes of this  
 19 section, the term “this Act” means the Plant  
 20 Protection Act.

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

23 **SEC. 101. PLANT PESTS.**

24           (a) PROHIBITION OF UNAUTHORIZED MOVEMENT OF  
 25 PLANT PESTS.—Except as provided in subsection (b), no



1 person shall import, enter, export, or move in interstate  
2 commerce any plant pest, unless the movement is author-  
3 ized under general or specific permit and is in accordance  
4 with such regulations as the Secretary may issue to pre-  
5 vent the introduction into the United States or interstate  
6 dissemination of plant pests.

7 (b) AUTHORIZATION OF MOVEMENT OF PLANT  
8 PESTS BY REGULATION.—

9 (1) IN GENERAL.—The Secretary may issue  
10 regulations which allow the movement of a plant  
11 pest in interstate commerce without further restric-  
12 tion when the Secretary finds that a permit is not  
13 necessary.

14 (2) PETITION TO ADD OR REMOVE PLANT  
15 PESTS FROM REGULATION.—

16 (A) IN GENERAL.—Any person may peti-  
17 tion the Secretary to add or remove a plant  
18 pest from regulations promulgated by the Sec-  
19 retary.

20 (B) RESPONSE TO PETITION BY THE SEC-  
21 RETARY.—The Secretary shall act on any peti-  
22 tion within a reasonable time and notify the pe-  
23 titioner of the final action the Secretary takes  
24 on the petition. The Secretary's determination  
25 on the petition shall be based on sound science.

1       (c) PROHIBITION OF UNAUTHORIZED MAILING OF  
2 PLANT PESTS.—

3           (1) IN GENERAL.—Except as provided in para-  
4 graph (2), no person shall mail or deliver from any  
5 post office or by any mail carrier any letter or pack-  
6 age containing any plant pest, unless it is mailed in  
7 accordance with such regulations as the Secretary  
8 may issue to prevent the introduction into the  
9 United States or interstate dissemination of plant  
10 pests.

11          (2) EXCEPTION FOR CERTAIN FEDERAL EM-  
12 PLOYEES.—This subsection shall not apply to any  
13 employee of the United States in the performance of  
14 the duties of the employee in handling the mail.

15          (3) APPLICATION OF POSTAL LAWS AND REGU-  
16 LATIONS.—Nothing in this subsection shall author-  
17 ize any person to open any mailed letter or other  
18 mailed sealed matter except in accordance with the  
19 postal laws and regulations.

20       (d) REGULATIONS.—Regulations issued by the Sec-  
21 retary to implement subsections (a), (b), and (c) may in-  
22 clude provisions requiring that any plant pest imported,  
23 entered, to be exported, moved in interstate commerce,  
24 mailed, or delivered from any post office—

1           (1) be accompanied by a permit issued by the  
 2       Secretary prior to the importation, entry, expor-  
 3       tation, movement in interstate commerce, mailing, or  
 4       delivery of the plant pest;

5           (2) be accompanied by a certificate of inspec-  
 6       tion issued (in a manner and form required by the  
 7       Secretary) by appropriate officials of the country or  
 8       State from which the plant pest is to be moved;

9           (3) be raised under post-entry quarantine con-  
 10      ditions by or under the supervision of the Secretary  
 11      for the purposes of determining whether the plant  
 12      pest may be infested with other plant pests, may  
 13      pose a significant risk of causing injury to, damage  
 14      to, or disease in any plant or plant product, or may  
 15      be a noxious weed; and

16          (4) be subject to remedial measures the Sec-  
 17      retary determines necessary to prevent the spread of  
 18      plant pests.

19 **SEC. 102. RESTRICTIONS ON MOVEMENT: PLANTS, PLANT**  
 20 **PRODUCTS, BIOLOGICAL CONTROL ORGA-**  
 21 **NISMS, ARTICLES, NOXIOUS WEEDS AND**  
 22 **MEANS OF CONVEYANCE.**

23          (a) IN GENERAL.—The Secretary may prohibit or re-  
 24      strict the importation, entry, exportation, or movement in  
 25      interstate commerce of any plant, plant product, biological

1 control organism, noxious weed, article, or any means of  
2 conveyance, if the Secretary determines that the prohibi-  
3 tion or restriction is necessary to prevent the introduction  
4 into the United States or the interstate dissemination of  
5 a plant pest or noxious weed.

6 (b) REGULATIONS.—The Secretary may issue regula-  
7 tions to implement subsection (a), including regulations  
8 requiring that any plant, plant product, biological control  
9 organism, noxious weed, article, or any means of convey-  
10 ance imported, entered, to be exported, or moved in inter-  
11 state commerce—

12 (1) be accompanied by a permit issued by the  
13 Secretary prior to the importation, entry, expor-  
14 tation, or movement in interstate commerce;

15 (2) be accompanied by a certificate of inspec-  
16 tion issued (in a manner and form required by the  
17 Secretary) by appropriate officials of the country or  
18 State from which the plant, plant product, biological  
19 control organism, noxious weed, article, or means of  
20 conveyance to be moved;

21 (3) be subject to remedial measures the Sec-  
22 retary determines to be necessary to prevent the  
23 spread of plant pests or noxious weeds; and

24 (4) with respect to plants or biological control  
25 organisms, be grown or handled under post-entry

1 quarantine conditions by or under the supervision of  
2 the Secretary for the purposes of determining wheth-  
3 er the plant or biological control organism may be  
4 infested with plant pests or may be a plant pest or  
5 noxious weed.

6 (c) NOXIOUS WEEDS.—

7 (1) REGULATIONS.—In the case of noxious  
8 weeds, the Secretary may publish, by regulation, a  
9 list of noxious weeds that are prohibited or re-  
10 stricted from entering the United States or that are  
11 subject to restrictions on interstate movement within  
12 the United States.

13 (2) PETITION TO ADD OR REMOVE PLANTS  
14 FROM REGULATION.—

15 (A) IN GENERAL.—Any person may peti-  
16 tion the Secretary to add or remove a plant spe-  
17 cies from regulations promulgated by the Sec-  
18 retary.

19 (B) DUTIES OF THE SECRETARY.—The  
20 Secretary shall act on any petition within a rea-  
21 sonable time and notify the petitioner of the  
22 final action the Secretary takes on the petition.  
23 The Secretary's determination on the petition  
24 shall be based on sound science.

25 (d) BIOLOGICAL CONTROL ORGANISMS.—

1           (1) REGULATIONS.—In the case of biological  
2       control organisms, the Secretary may publish, by  
3       regulation, a list of organisms whose movement in  
4       interstate commerce is not prohibited or restricted.  
5       Any listing may take into account distinctions be-  
6       tween organisms such as indigenous, non-indigenous,  
7       newly introduced, or commercially raised.

8           (2) PETITION TO ADD OR REMOVE BIOLOGICAL  
9       CONTROL ORGANISMS FROM THE REGULATIONS.—

10           (A) IN GENERAL.—Any person may peti-  
11       tion the Secretary to add or remove a biological  
12       control organism from regulations promulgated  
13       by the Secretary.

14           (B) DUTIES OF THE SECRETARY.—The  
15       Secretary shall act on any petition within a rea-  
16       sonable time and notify the petitioner of the  
17       final action the Secretary takes on the petition.  
18       The Secretary's determination on the petition  
19       shall be based on sound science.

1 **SEC. 103. NOTIFICATION OF ARRIVAL AND INSPECTION BE-**  
2 **FORE MOVEMENT: PLANTS, PLANT PROD-**  
3 **UCTS, BIOLOGICAL CONTROL ORGANISMS,**  
4 **PLANT PESTS, NOXIOUS WEEDS, ARTICLES,**  
5 **MEANS OF CONVEYANCE.**

6 (a) NOTIFICATION REQUIREMENTS OF THE SEC-  
7 RETARY OF THE TREASURY.—

8 (1) IN GENERAL.—Except as provided in para-  
9 graph (2), the Secretary of the Treasury shall  
10 promptly notify the Secretary of the arrival of any  
11 plant, plant product, biological control organism,  
12 plant pest, or noxious weed at a port of entry and  
13 hold the plant, plant product, biological control orga-  
14 nism, plant pest, or noxious weed until inspected  
15 and authorized for entry into or transit movement  
16 through the United States, or otherwise released by  
17 the Secretary.

18 (2) EXCEPTIONS.—Paragraph (1) shall not  
19 apply to any plant, plant product, biological control  
20 organism, plant pest, or noxious weed that is im-  
21 ported from countries or regions of countries that  
22 the Secretary designates, pursuant to such regula-  
23 tions as the Secretary may issue, as exempt from the  
24 requirements of this subsection.

25 (b) NOTIFICATION REQUIREMENTS OF RESPONSIBLE  
26 PARTIES.—The person responsible for any plant, plant

1 product, biological control organism, plant pest, noxious  
2 weed, article, or means of conveyance required to have a  
3 permit under section 101 or 102 shall promptly, upon ar-  
4 rival at the port of entry and before the plant, plant prod-  
5 uct, biological control organism, plant pest, noxious weed,  
6 article, or means of conveyance is moved from the port  
7 of entry, notify the Secretary, or at the Secretary's direc-  
8 tion, the proper official of the State to which the plant,  
9 plant product, biological control organism, plant pest, nox-  
10 ious weed, article, or means of conveyance is destined, or  
11 both, as the Secretary may prescribe, of—

12 (1) the name and address of the consignee;

13 (2) the nature and quantity of the plant, plant  
14 product, biological control organism, plant pest, nox-  
15 ious weed, article, or means of conveyance proposed  
16 to be moved; and

17 (3) the country and locality where the plant,  
18 plant product, biological control organism, plant  
19 pest, noxious weed, article, or means of conveyance  
20 was grown, produced, or located.

21 (c) PROHIBITION ON MOVEMENT OF ITEMS WITH-  
22 OUT AUTHORIZATION.—No person shall move from the  
23 port of entry or interstate any imported plant, plant prod-  
24 uct, biological control organism, plant pest, noxious weed,  
25 article, or means of conveyance unless the imported plant,



1 plant product, biological control organism, plant pest, nox-  
 2 ious weed, article, or means of conveyance has been in-  
 3 spected and authorized for entry into or transit movement  
 4 through the United States, or otherwise released by the  
 5 Secretary.

6 **SEC. 104. REMEDIAL MEASURES OR DISPOSAL FOR PLANT**  
 7 **PESTS OR NOXIOUS WEEDS: EXTRAORDINARY**  
 8 **EMERGENCY.**

9 (a) IN GENERAL.—

10 (1) HOLD, TREAT OR DESTROY ITEMS.—Except  
 11 as provided in subsection (b)(3), the Secretary may,  
 12 whenever the Secretary deems it necessary in order  
 13 to prevent the dissemination of any plant pest or  
 14 noxious weed new to or not known to be widely prev-  
 15 alent or distributed within and throughout the  
 16 United States, hold, seize, quarantine, treat, apply  
 17 other remedial measures to, destroy, or otherwise  
 18 dispose of any plant, plant pest (not including a  
 19 plant), biological control organism, plant product,  
 20 article, or means of conveyance that—

21 (A) is moving into or through the United  
 22 States or interstate, or has moved into or  
 23 through the United States or interstate and—

24 (i) the Secretary has reason to believe  
 25 is a plant pest or noxious weed or is in-

1            fested with a plant pest or noxious weed at  
2            the time of the movement; or

3            (ii) is or has been otherwise in viola-  
4            tion of this Act;

5            (B) has not been maintained in compliance  
6            with a post-entry quarantine requirement; or

7            (C) is the progeny of any plant, biological  
8            control organism, plant product, plant pest, or  
9            noxious weed that is moving into or through the  
10           United States or interstate, or has moved into  
11           the United States or interstate in violation of  
12           this Act.

13           (2) AUTHORITY TO ORDER AN OWNER TO  
14           TREAT OR DESTROY.—

15           (A) IN GENERAL.—Except as provided in  
16           subsection (b)(3) of this section, the Secretary  
17           may order the owner of any plant, biological  
18           control organism, plant product, plant pest,  
19           noxious weed, article, or means of conveyance  
20           subject to action under subsection (a)(1), or the  
21           owner's agent, to treat, apply other remedial  
22           measures to, destroy, or otherwise dispose of  
23           the plant, biological control organism, plant  
24           product, plant pest, noxious weed, or means of  
25           conveyance, without cost to the Federal Govern-

1           ment and in the manner the Secretary deems  
2           appropriate.

3           (B) FAILURE TO COMPLY WITH AN  
4           ORDER.—If the owner or agent of the owner  
5           fails to comply with the Secretary's order, the  
6           Secretary may take an action authorized by  
7           subsection (a)(1) and recover from the owner or  
8           agent of the owner the costs of any care, han-  
9           dling, application of remedial measures or dis-  
10          posal incurred by the Secretary in connection  
11          with actions taken under subsection (a)(1).

12          (3) CLASSIFICATION SYSTEM.—

13               (A) IN GENERAL.—To facilitate control of  
14               noxious weeds, the Secretary may develop a  
15               classification system to describe the status and  
16               action levels for noxious weeds. The classifica-  
17               tion system may include the current geographic  
18               distribution, relative threat, and actions initi-  
19               ated to prevent introduction or distribution.

20               (B) MANAGEMENT PLANS.—In conjunction  
21               with the classification system, the Secretary  
22               may develop integrated management plans for  
23               noxious weeds for the geographic region or eco-  
24               logical range where the noxious weed is found  
25               in the United States.

1 (b) EXTRAORDINARY EMERGENCY.—

2 (1) AUTHORITY OF THE SECRETARY.—In ac-  
3 cordance with paragraph (2), whenever the Sec-  
4 retary determines that any extraordinary emergency  
5 exists because of the presence of a plant pest or nox-  
6 ious weed new to or not known to be widely preva-  
7 lent in or distributed within and throughout the  
8 United States and that the presence of the plant  
9 pest or noxious weed threatens plants or plant prod-  
10 ucts of the United States, the Secretary may—

11 (A) hold, seize, quarantine, treat, apply  
12 other remedial measures to, destroy, or other-  
13 wise dispose of, any plant, biological control or-  
14 ganism, plant product, article, or means of con-  
15 veyance that the Secretary has reason to believe  
16 is infested with the plant pest or noxious weed;

17 (B) quarantine, treat, or apply other reme-  
18 dial measures to any premises, including any  
19 plants, biological control organisms, plant prod-  
20 ucts, articles, or means of conveyance on the  
21 premises, that the Secretary has reason to be-  
22 lieve is infested with the plant pest or noxious  
23 weed;

24 (C) quarantine any State or portion of a  
25 State in which the Secretary finds the plant

1 pest or noxious weed or any plant, biological  
2 control organism, plant product, article, or  
3 means of conveyance that the Secretary has  
4 reason to believe is infested with the plant pest  
5 or noxious weed; and

6 (D) prohibit or restrict the movement with-  
7 in a State of any plant, biological control orga-  
8 nism, plant product, article, or means of con-  
9 veyance when the Secretary determines that the  
10 prohibition or restriction is necessary to prevent  
11 the dissemination of the plant pest or noxious  
12 weed or to eradicate the plant pest or noxious  
13 weed.

14 (2) PROCEDURES.—

15 (A) IN GENERAL.—The Secretary may  
16 take action under this subsection upon finding,  
17 after review and consultation with the Governor  
18 or other appropriate official of the State, that  
19 the measures being taken by the State are inad-  
20 equate to eradicate the plant pest or noxious  
21 weed.

22 (B) NOTIFICATION PROCEDURES.—

23 (i) IN GENERAL.—Except as provided  
24 in clause (ii), before any action is taken in  
25 any State under this subsection, the Sec-

1           retary shall notify the Governor or other  
2           appropriate official of the State, issue a  
3           public announcement, and, file for publica-  
4           tion in the Federal Register a statement of  
5           the Secretary's findings, the action the  
6           Secretary intends to take, the reasons for  
7           the intended action, and, where prac-  
8           ticable, an estimate of the anticipated du-  
9           ration of the extraordinary emergency.

10           (ii) TIME SENSITIVE ACTIONS.—If it  
11           is not possible to file for publication in the  
12           Federal Register prior to taking action, the  
13           filing shall be made within a reasonable  
14           time, not to exceed 10 business days, after  
15           commencement of the action.

16           (3) APPLICATION OF LEAST DRASTIC ACTION.—

17           No plant, biological control organism, plant product,  
18           plant pest, noxious weed, article, or means of con-  
19           veyance shall be destroyed, exported, or returned to  
20           the shipping point of origin, or ordered to be de-  
21           stroyed, exported, or returned to the shipping point  
22           of origin under this section unless, in the opinion of  
23           the Secretary, there is no less drastic action that is  
24           feasible and that would be adequate to prevent the  
25           dissemination of any plant pest or noxious weed new

1 to or not known to be widely prevalent or distributed  
2 within and throughout the United States.

3 (4) PAYMENT OF COMPENSATION.—

4 (A) IN GENERAL.—The Secretary may pay  
5 compensation to any person for economic losses  
6 incurred by them as a result of action taken by  
7 the Secretary under subsection (b)(1).

8 (B) FINALITY OF DECISIONS.—The deter-  
9 mination by the Secretary of the amount of any  
10 compensation to be paid under this subsection  
11 shall be final and shall not be subject to judicial  
12 review.

13 (c) ENFORCEMENT.—

14 (1) IN GENERAL.—The owner of any plant,  
15 plant product, plant pest, noxious weed, article, or  
16 means of conveyance destroyed or otherwise disposed  
17 of by the Secretary under this section may bring an  
18 action against the United States in any United  
19 States District Court where the owner is found, re-  
20 sides, transacts business, is licensed to do business,  
21 or is incorporated, within one year after the destruc-  
22 tion or disposal, and recover just compensation for  
23 the destruction or disposal of the plant, biological  
24 control organism, plant product, plant pest, noxious  
25 weed, article, or means of conveyance (not including

1 compensation for loss due to delays incident to de-  
2 termining eligibility for importation, entry, expor-  
3 tation, movement in interstate commerce, or release  
4 into the environment) if the owner establishes that  
5 the destruction or disposal was not authorized under  
6 this Act.

7 (2) PAYMENT OF JUDGMENTS.—Any judgment  
8 rendered in favor of the owner shall be paid out of  
9 the money in the Treasury appropriated for plant  
10 pest control activities of the Department of Agri-  
11 culture.

12 **SEC. 105. INSPECTIONS, SEIZURES, AND WARRANTS.**

13 The Secretary may, consistent with guidelines ap-  
14 proved by the Attorney General:

15 (1) INSPECTIONS WITHOUT A WARRANT.—Stop  
16 and inspect, without a warrant, any person or means  
17 of conveyance moving—

18 (A) into the United States to determine  
19 whether the person or means of conveyance is  
20 carrying any plant, plant product, biological  
21 control organism, plant pest, noxious weed, or  
22 article subject to this Act;

23 (B) in interstate commerce upon probable  
24 cause to believe that the person or means of  
25 conveyance is carrying any plant, plant product,



1 biological control organism, plant pest, noxious  
2 weed, or article subject to this Act; and

3 (C) in intrastate commerce from or within  
4 any State, portion of a State, or premises quar-  
5 antined under section 104(b) upon probable  
6 cause to believe that the person or means of  
7 conveyance is carrying any plant, plant product,  
8 biological control organism, plant pest, noxious  
9 weed, or article regulated under section 104(b)  
10 or is moving subject to section 104(b).

11 (2) INSPECTION WITH A WARRANT.—

12 (A) IN GENERAL.—The Secretary may  
13 enter, with a warrant, any premises in the  
14 United States for the purpose of conducting in-  
15 vestigations or making inspections and seizures  
16 under this Act.

17 (B) APPLICATION AND ISSUANCE OF A  
18 WARRANT.—Any United States judge, any  
19 judge of a court of record in the United States,  
20 or any United States magistrate judge may,  
21 within the judge's or magistrate's jurisdiction,  
22 upon proper oath or affirmation showing prob-  
23 able cause to believe that there is on certain  
24 premises any plant, plant product, biological  
25 control organism, plant pest, noxious weed, arti-

1           cle, facility, or means of conveyance regulated  
2           under this Act, issue a warrant for the entry  
3           upon the premises to conduct any investigation  
4           or make any inspection or seizure under this  
5           Act. The warrant may be applied for and exe-  
6           cuted by the Secretary or any United States  
7           Marshal.

8   **SEC. 106. CONTROL OF GRASSHOPPERS AND MORMON**  
9                   **CRICKETS.**

10       (a) IN GENERAL.—Subject to the availability of  
11       funds pursuant to this section, the Secretary shall carry  
12       out a program to control grasshoppers and Mormon Crick-  
13       ets on all Federal lands to protect rangeland.

14       (b) FUNDING.—

15           (1) AUTHORITY TO TRANSFER FUNDS.—

16               (A) IN GENERAL.—Except as provided in  
17               paragraph (2), the Secretary shall expend or  
18               transfer and, upon request, the Secretary of the  
19               Interior shall transfer to the Secretary from  
20               any no-year appropriations, funds for the pre-  
21               vention, suppression, and control of actual or  
22               potential grasshopper and Mormon Cricket out-  
23               breaks on lands under the jurisdiction of the  
24               Federal Government.

1 (B) TRANSFER REQUESTS.—Requests for  
2 funds transferred pursuant to this section shall  
3 be made as promptly as possible by the Sec-  
4 retary.

5 (C) REPLENISHMENT OF TRANSFERRED  
6 FUNDS.—Funds transferred pursuant to this  
7 section shall be replenished by supplemental or  
8 regular appropriations, which shall be requested  
9 as promptly as possible.

10 (2) AVAILABILITY OF DEPARTMENT OF THE IN-  
11 TERIOR FUNDS.—Funds transferred by the Sec-  
12 retary of the Interior shall be available for the pay-  
13 ment of obligations incurred on Federal lands sub-  
14 ject to the jurisdiction of the Secretary of the Inte-  
15 rior.

16 (3) LIMITATION.—No funds transferred to the  
17 Secretary from the Secretary of the Interior shall be  
18 made available under this subsection until funds spe-  
19 cifically appropriated to the Secretary for grass-  
20 hopper control have been exhausted.

21 (c) TREATMENT FOR GRASSHOPPERS AND MORMON  
22 CRICKETS.—

23 (1) IN GENERAL.—Subject to the availability of  
24 funds pursuant to this section, on request of the ad-  
25 ministering agency or the Department of Agriculture

1 of an affected State, the Secretary, to protect range-  
2 land, shall immediately treat Federal, State, or pri-  
3 vate lands that are infested with grasshoppers or  
4 Mormon Crickets at levels of economic infestation,  
5 unless the Secretary determines that delaying treat-  
6 ment will not cause greater economic damage to ad-  
7 jacent owners of rangeland.

8 (2) OTHER PROGRAMS.—In carrying out this  
9 section, the Secretary shall work in conjunction with  
10 other Federal, State, and private prevention, control,  
11 or suppression efforts to protect rangeland.

12 (d) FEDERAL COST SHARE OF TREATMENT.—The  
13 Secretary shall—

14 (1) pay out of appropriated funds made avail-  
15 able to the Secretary or transferred to the Secretary  
16 by the Secretary of the Interior, 100 percent of the  
17 cost of grasshopper or Mormon Cricket control on  
18 Federal lands to protect rangeland; and

19 (2) pay out appropriated funds made available  
20 to the Secretary—

21 (A) 50 percent of the cost of the control of  
22 grasshopper or Mormon Cricket on State lands;  
23 and

1 (B) 33.3 percent of the cost of the control  
2 of grasshopper or Mormon Cricket on private  
3 lands.

4 (e) TRAINING.—From appropriated funds made  
5 available or transferred by the Secretary of the Interior  
6 to the Secretary for such purposes, the Secretary shall  
7 provide adequate funding for a program to train personnel  
8 to accomplish effectively the objective of this section.

9 **SEC. 107. COOPERATION.**

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

16 (b) RESPONSIBILITY.—The individual or entity co-  
17 operating with the Secretary shall be responsible for the  
18 authority necessary to conduct the operations or take  
19 measures on all lands and properties within the foreign  
20 country or State, other than those owned or controlled by  
21 the United States, and for other facilities and means as  
22 the Secretary determines necessary.

23 (c) TRANSFER OF BIOLOGICAL CONTROL METH-  
24 ODS.—The Secretary may transfer to a State, Federal  
25 agency, or other person biological control methods utiliz-

1 ing biological control organisms against plant pests or  
2 noxious weeds.

3 (d) COOPERATION IN PROGRAM ADMINISTRATION.—

4 The Secretary may cooperate with State authorities or  
5 other persons in the administration of programs for the  
6 improvement of plants, plant products, and biological con-  
7 trol organisms.

8 **SEC. 108. CERTIFICATION FOR EXPORTS.**

9 The Secretary may certify as to the freedom of  
10 plants, plant products, or biological control organisms  
11 from plant pests or noxious weeds or exposure of plants,  
12 plant products, or biological control organisms to plant  
13 pests or noxious weeds according to the phytosanitary or  
14 other requirements of the countries to which the plants,  
15 plant products, or biological control organisms may be ex-  
16 ported.

17 **SEC. 109. BUILDINGS, LAND, PEOPLE, CLAIMS, AND AGREE-**  
18 **MENTS.**

19 (a) IN GENERAL.—The Secretary may acquire and  
20 maintain all real or personal property for special purposes  
21 and employ any persons, make grants, and enter into any  
22 contracts, cooperative agreements, memoranda of under-  
23 standing, or other agreements, necessary for carrying out  
24 this Act.

25 (b) TORT CLAIMS.—

1           (1) IN GENERAL.—Except as provided in para-  
2       graph (2), the Secretary may pay tort claims in the  
3       manner authorized in the first paragraph of 28  
4       U.S.C. 2672 when the claims arise outside the  
5       United States in connection with activities that are  
6       authorized under this Act.

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

11 **SEC. 110. REIMBURSABLE AGREEMENTS.**

12       (a) AUTHORITY TO ENTER INTO AGREEMENTS.—  
13      The Secretary may enter into reimbursable fee agreements  
14      with persons for preclearance of plants, plant products,  
15      biological control organisms, and articles at locations out-  
16      side the United States for movement to the United States.

17       (b) FUNDS COLLECTED FOR PRECLEARANCE.—  
18      Funds collected for preclearance shall be credited to ac-  
19      counts which may be established by the Secretary for this  
20      purpose and shall remain available until expended for the  
21      preclearance activities without fiscal year limitation.

22       (c) PAYMENT OF EMPLOYEES.—

23           (1) IN GENERAL.—Notwithstanding any other  
24       law, the Secretary may pay employees of the United  
25       States Department of Agriculture performing serv-

1       ices relating to imports into and exports from the  
2       United States, for all overtime, night, or holiday  
3       work performed by them, at rates of pay established  
4       by the Secretary.

5           (2) REIMBURSEMENT OF THE SECRETARY.—

6               (A) IN GENERAL.—The Secretary may re-  
7       quire persons for whom the services are per-  
8       formed to reimburse the Secretary for any sums  
9       of money paid by the Secretary for the services.

10            (B) USE OF FUNDS.—All funds collected  
11       under this subsection shall be credited to the  
12       account that incurs the costs and shall remain  
13       available until expended without fiscal year lim-  
14       itation.

15       (d) LATE PAYMENT PENALTIES.—

16            (1) COLLECTION.—Upon failure to reimburse  
17       the Secretary in accordance with this section, the  
18       Secretary may assess a late payment penalty, and  
19       the overdue funds shall accrue interest, as required  
20       by 31 U.S.C. 3717.

21            (2) USE OF FUNDS.—Any late payment penalty  
22       and any accrued interest shall be credited to the ac-  
23       count that incurs the costs and shall remain avail-  
24       able until expended without fiscal year limitation.



1 **SEC. 111. VIOLATIONS—PENALTIES.**

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

11 (b) CIVIL PENALTIES.—

12 (1) IN GENERAL.—Any person who violates this  
13 Act, or who forges, counterfeits, or, without author-  
14 ity from the Secretary, uses, alters, defaces, or de-  
15 stroy any certificate, permit, or other document  
16 provided for in this Act may, after notice and oppor-  
17 tunity for a hearing on the record, be assessed a  
18 civil penalty by the Secretary which does not exceed  
19 the greater of—

20 (A) \$50,000 in the case of an individual,  
21 \$250,000 in the case of any other person for  
22 each violation; and \$500,000 for all violations  
23 adjudicated in a single proceeding; or

24 (B) twice the gross gain or gross loss for  
25 any violation or forgery, counterfeiting, or un-  
26 authorized use, defacing or destruction of a cer-

1           tificate, permit, or other document provided for  
2           in this Act that results in the person deriving  
3           pecuniary gain or causing pecuniary loss to an-  
4           other.

5           (2) FACTORS IN DETERMINING CIVIL PEN-  
6           ALTY.—In determining the amount of a civil penalty,  
7           the Secretary shall take into account the nature, cir-  
8           cumstance, extent, and gravity of the violation or  
9           violations and the Secretary may consider, with re-  
10          spect to the violator, ability to pay, effect on ability  
11          to continue to do business, any history of prior viola-  
12          tions, the degree of culpability, and any other factors  
13          the Secretary deems appropriate.

14          (3) SETTLEMENT OF CIVIL PENALTIES.—The  
15          Secretary may compromise, modify, or remit, with or  
16          without conditions, any civil penalty that may be as-  
17          sessed under this section.

18          (4) FINALITY OF ORDERS.—The order of the  
19          Secretary assessing a civil penalty shall be treated as  
20          a final order reviewable under chapter 158 of title  
21          28, United States Code. The validity of the Sec-  
22          retary's order may not be reviewed in an action to  
23          collect the civil penalty. Any civil penalty not paid in  
24          full when due under an order assessing the civil pen-  
25          alty shall thereafter accrue interest until paid at the

1 rate of interest applicable to civil judgments of the  
2 courts of the United States.

3 (c) LIABILITY FOR ACTS OF AN AGENT.—When con-  
4 struing and enforcing this Act, the act, omission, or failure  
5 of any officer, agent, or person acting for or employed by  
6 any other person within the scope of his or her employ-  
7 ment or office, shall be deemed also to be the act, omis-  
8 sion, or failure of the other person.

9 (d) GUIDELINES FOR CIVIL PENALTIES.—The Sec-  
10 retary shall coordinate with the Attorney General to estab-  
11 lish guidelines to determine under what circumstances the  
12 Secretary may issue a civil penalty or suitable notice of  
13 warning in lieu of prosecution by the Attorney General of  
14 a violation of this Act.

15 **SEC. 112. ENFORCEMENT.**

16 (a) COLLECTION OF INFORMATION.—

17 (1) IN GENERAL.—The Secretary may gather  
18 and compile information and conduct any investiga-  
19 tions the Secretary deems necessary for the adminis-  
20 tration and enforcement of this Act. The Secretary  
21 shall at all reasonable times have the right to exam-  
22 ine and copy any documentary evidence of any per-  
23 son being investigated or proceeded against.

24 (2) SUBPOENAS.—

1           (A) IN GENERAL.—The Secretary shall  
2           have power to subpoena the attendance and tes-  
3           timony of any witness, and the production of all  
4           documentary evidence relating to the adminis-  
5           tration or enforcement of this Act or any mat-  
6           ter under investigation in connection with this  
7           Act.

8           (B) LOCATION OF PRODUCTION.—The at-  
9           tendance of any witness and production of doc-  
10          umentary evidence may be required from any  
11          place in the United States at any designated  
12          place of hearing.

13          (C) ENFORCEMENT OF SUBPOENA.—In  
14          case of disobedience to a subpoena by any per-  
15          son, the Secretary may request the Attorney  
16          General to invoke the aid of any court of the  
17          United States within the jurisdiction in which  
18          the investigation is conducted, or where the per-  
19          son resides, is found, transacts business, is li-  
20          censed to do business, or is incorporated in re-  
21          quiring the attendance and testimony of any  
22          witness and the production of documentary evi-  
23          dence. The court may, in case of a refusal to  
24          obey a subpoena issued to any person, order the  
25          person to appear before the Secretary and give

1 evidence concerning the matter in question or  
2 to produce documentary evidence. Any failure  
3 to obey the court's order may be punished by  
4 the court as a contempt of the court. Witnesses  
5 summoned by the Secretary shall be paid the  
6 same fees and mileage that are paid to wit-  
7 nesses in courts of the United States, and wit-  
8 nesses whose depositions are taken and the per-  
9 sons taking the depositions shall be entitled to  
10 the same fees that are paid for similar services  
11 in the courts of the United States.

12 (b) AUTHORITY OF THE ATTORNEY GENERAL.—The  
13 Attorney General may—

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

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

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

5       (c) COURT JURISDICTION.—Except as provided in  
6       section 111(b), the United States district courts, the Dis-  
7       trict Court of Guam, the District Court of the Virgin Is-  
8       lands, the highest court of American Samoa, and the  
9       United States courts of other territories and possessions  
10      are vested with jurisdiction in all cases arising under this  
11      Act. Except as provided in section 111(b), any action aris-  
12      ing under this Act may be brought, and process may be  
13      served in the judicial district where a violation or inter-  
14      ference occurred or is about to occur, or where the person  
15      charged with the violation, interference, impending viola-  
16      tion, impending interference, or failure to pay resides, is  
17      found, transacts business, is licensed to do business, or  
18      is incorporated.

19      (d) SCOPE OF SUBPOENA.—Subpoenas for witnesses  
20      to attend court in any judicial district or to testify or  
21      produce evidence at an administrative hearing in any judi-  
22      cial district in any action or proceeding arising under this  
23      Act may run to any other judicial district.

1 **SEC. 113. APPROPRIATIONS AND TRANSFER AUTHORITY.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—There  
3 are authorized to be appropriated such sums of money as  
4 may be necessary to carry out this Act. Except as specifi-  
5 cally authorized by law, no part of the money appropriated  
6 under this subsection shall be used to pay indemnities for  
7 property injured or destroyed by or at the direction of the  
8 Secretary.

9 (b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—  
10 The Secretary may, in connection with an emergency in  
11 which a plant pest or noxious weed threatens any segment  
12 of the agricultural production of the United States, trans-  
13 fer from other appropriations or funds available to the  
14 agencies or corporations of the United States Department  
15 of Agriculture any sum of money as the Secretary may  
16 deem necessary to be available in the emergency for the  
17 arrest, control, eradication, and prevention of the spread  
18 of the plant pest or noxious weed and for related expenses.  
19 Any funds transferred under this subsection shall remain  
20 available for such purposes without fiscal year limitation.

21 **SEC. 114. REGULATIONS AND ORDERS.**

22 The Secretary may issue any regulations or orders  
23 as the Secretary deems necessary to carry out this Act.  
24 The regulations or orders may include, but are not limited  
25 to, provisions concerning—

1           (1) notification of arrival plants, plant products,  
2           biological control organisms, plant pests, noxious  
3           weeds, articles, or means of conveyance;

4           (2) prohibition or restriction of the importation,  
5           entry, exportation, or movement in interstate com-  
6           merce of plants, plant products, biological control or-  
7           ganisms, plant pests, noxious weeds, articles, and  
8           means of conveyance;

9           (3) holding, seizure, quarantine, treatment, ap-  
10          plication of remedial measures to, destruction, and  
11          disposal of plants, biological control organisms, plant  
12          products, plant pests, noxious weeds, articles, prem-  
13          ises, or means of conveyance;

14          (4) in the case of an extraordinary emergency,  
15          prohibition or restriction upon the intrastate move-  
16          ment of plants, biological control organisms, plant  
17          pests, noxious weeds, plant products, articles, and  
18          means of conveyance;

19          (5) payment of compensation;

20          (6) cooperation with other Federal agencies,  
21          States, political subdivisions of States, national gov-  
22          ernments, local governments of other nations, inter-  
23          national organizations, international associations,  
24          and other persons, entities, and individuals;



- 1           (7) facilitation of transfer of biological control
- 2           methods for plant pests or noxious weeds;
- 3           (8) negotiation and execution of agreements;
- 4           (9) acquisition and maintenance of real and
- 5           personal property;
- 6           (10) issuance of letters of warming;
- 7           (11) compilation of information;
- 8           (12) investigations;
- 9           (13) transfer of funds for emergencies;
- 10          (14) approval of facilities and means of convey-
- 11          ance;
- 12          (15) denial of approval of facilities and means
- 13          of conveyance;
- 14          (16) suspension and revocation of approval of
- 15          facilities and means of conveyance;
- 16          (17) inspection, testing, and certification;
- 17          (18) cleaning and disinfection;
- 18          (19) designation of ports of entry;
- 19          (20) imposition and collection of fees, penalties,
- 20          and interest;
- 21          (21) making or maintaining records and mark-
- 22          ing and identification;
- 23          (22) issuance of permits and phytosanitary cer-
- 24          tificates;

1           (23) establishment of quarantines, post-import-  
2           tation conditions, and post-entry quarantine condi-  
3           tions;

4           (24) establishment of treatment requirements;

5           (25) establishment of conditions for transit  
6           movement through the United States; and

7           (26) treatment of land for the prevention, sup-  
8           pression, or control of plant pests or noxious weeds.

9   **SEC. 115. PREEMPTION.**

10       (a) REGULATION OF FOREIGN COMMERCE.—No  
11       State or political subdivision of a State may regulate in  
12       foreign commerce any article, means of conveyance, plant,  
13       biological control organism, plant pest, noxious weed, or  
14       plant product in order to control a plant pest or noxious  
15       weed, eradicate a plant pest or noxious weed, or prevent  
16       the introduction or dissemination of a biological control  
17       organism, plant pest or noxious weed.

18       (b) REGULATION OF INTERSTATE COMMERCE.—

19           (1) IN GENERAL.—Except as provided in para-  
20       graph (2), no State or political subdivision of a  
21       State may regulate the movement in interstate com-  
22       merce of any article, means of conveyance, plant, bi-  
23       ological control organism, plant pest, noxious weed,  
24       or plant product in order to control a plant pest or  
25       noxious weed, eradicate a plant pest or noxious

1 weed, or prevent the introduction or dissemination of  
2 a biological control organism, plant pest or noxious  
3 weed, if the Secretary has issued a regulation or  
4 order to prevent the dissemination of the biological  
5 control organism, plant pest or noxious weed within  
6 the United States.

7 (2) EXCEPTIONS.—

8 (A) REGULATIONS CONSISTENT WITH FED-  
9 ERAL REGULATIONS.—A State or a political  
10 subdivision of a State may impose prohibitions  
11 or restrictions upon the movement in interstate  
12 commerce of articles, means of conveyance,  
13 plants, biological control organisms, plant pests,  
14 noxious weeds, or plant products that are con-  
15 sistent with and do not exceed the regulations  
16 or orders issued by the Secretary.

17 (B) SPECIAL LOCAL NEED.—A State or  
18 political subdivision of a State may impose pro-  
19 hibitions or restrictions upon the movement in  
20 interstate commerce of articles, means of con-  
21 veyance, plants, plant products, biological con-  
22 trol organisms, plant pests, or noxious weeds  
23 that are in addition to the prohibitions or re-  
24 strictions imposed by the Secretary, if the State  
25 or political subdivision of a State demonstrates

1 to the Secretary and the Secretary finds that  
2 there is a special need for additional prohibi-  
3 tions or restrictions based on sound scientific  
4 data or a thorough risk assessment.

5 **SEC. 116. SEVERABILITY.**

6 If any provision of this Act or application of any pro-  
7 vision of this Act to any person or circumstances is held  
8 invalid, the remainder of this Act and the application of  
9 the provision to other persons and circumstances shall not  
10 be affected by the invalidity.

11 **SEC. 117. REPEALS.**

12 The following provisions of law are hereby repealed:

13 (1) The Plant Quarantine Act, as amended (7  
14 U.S.C. 151–164a and 167);

15 (2) The Federal Plant Pest Act, as amended (7  
16 U.S.C. 150aa–250jj);

17 (3) Except section 2509(b) of the Food, Agri-  
18 culture, Conservation, and Trade Act of 1990 (7  
19 U.S.C. 147a(f)), section 102 of the Department of  
20 Agriculture Organic Act of 1944, as amended (7  
21 U.S.C. 147a);

22 (4) Except section 1453 of the Food, Agri-  
23 culture, Conservation, and Trade Act of 1990 (7  
24 U.S.C. 2814), the Federal Noxious Weed Act of  
25 1974, as amended (7 U.S.C. 2801–2814);

1           (5) The Mexican Border Act, as amended (7  
2       U.S.C. 149);

3           (6) Joint Resolution of April 6, 1937 (7 U.S.C.  
4       148–148e);

5           (7) The Act of August 28, 1950 (7 U.S.C.  
6       2260);

7           (8) The Halogeton Glomeratus Act (7 U.S.C.  
8       1651–1656);

9           (9) The Golden Nematode Act (7 U.S.C. 150–  
10      150g);

11          (10) The Act of December 23, 1985 (7 U.S.C.  
12      148f); and

13          (11) The Act of September 25, 1981 (7 U.S.C.  
14      147b).

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