

106TH CONGRESS  
1ST SESSION

# S. 910

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 SENATE OF THE UNITED STATES

APRIL 29, 1999

Mr. CRAIG introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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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; TABLE OF CONTENTS.**

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

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions.

## TITLE I—PLANT PROTECTION

- Sec. 101. Regulation of movement of plant pests.
- Sec. 102. Regulation of movement of plants, plant products, biological control organisms, noxious weeds, articles, and means of conveyance.
- Sec. 103. Notification and holding requirements on arrival.
- Sec. 104. General remedial measures for new plant pests and noxious weeds.
- Sec. 105. Extraordinary emergencies.
- Sec. 106. Recovery of compensation for unauthorized activities.
- Sec. 107. Control of grasshoppers and Mormon Crickets.
- Sec. 108. Certification for exports.

## TITLE II—INSPECTION AND ENFORCEMENT

- Sec. 201. Inspections and warrants.
- Sec. 202. Collection of information.
- Sec. 203. Subpoena authority.
- Sec. 204. Penalties for violation.
- Sec. 205. Enforcement actions of Attorney General.
- Sec. 206. Court jurisdiction.

## TITLE III—MISCELLANEOUS PROVISIONS

- Sec. 301. Cooperation.
- Sec. 302. Buildings, land, people, claims, and agreements.
- Sec. 303. Reimbursable agreements.
- Sec. 304. Protection for mail handlers.
- Sec. 305. Preemption.
- Sec. 306. Regulations and orders.
- Sec. 307. Repeal of superseded laws.

## TITLE IV—FEDERAL COORDINATION

- Sec. 401. Definitions.
- Sec. 402. Invasive Species Council.
- Sec. 403. Advisory committee.
- Sec. 404. Invasive Species Action Plan.

## TITLE V—AUTHORIZATION OF APPROPRIATIONS

- Sec. 501. Authorization of appropriations.
- Sec. 502. Transfer authority.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

- 3 (1) the detection, control, eradication, suppres-
- 4 sion, prevention, and retardation of the spread of
- 5 plant pests and noxious weeds is necessary for the

1 protection of the agriculture, environment, and econ-  
2 omy of the United States;

3 (2) biological control—

4 (A) is often a desirable, low-risk means of  
5 ridding crops and other plants of plant pests  
6 and noxious weeds; and

7 (B) should be facilitated by the Secretary  
8 of Agriculture, Federal agencies, and States,  
9 whenever feasible;

10 (3) the smooth movement of enterable plants,  
11 plant products, certain biological control organisms,  
12 or other articles into, out of, or within the United  
13 States is vital to the economy of the United States  
14 and should be facilitated to the extent practicable;

15 (4) markets could be severely impacted by the  
16 introduction or spread of plant pests or noxious  
17 weeds into or within the United States;

18 (5) the unregulated movement of plants, plant  
19 products, biological control organisms, plant pests,  
20 noxious weeds, and articles capable of harboring  
21 plant pests or noxious weeds would present an unac-  
22 ceptable risk of introducing or spreading plant pests  
23 or noxious weeds;

24 (6) the existence on any premises in the United  
25 States of a plant pest or noxious weed new to or not

1 known to be widely prevalent in or distributed within  
2 and throughout the United States could threaten  
3 crops, other plants, and plant products of the United  
4 States and burden interstate commerce or foreign  
5 commerce; and

6 (7) all plants, plant products, biological control  
7 organisms, plant pests, noxious weeds, or articles ca-  
8 pable of harboring plant pests or noxious weeds reg-  
9 ulated under this Act are in or affect interstate com-  
10 merce or foreign commerce.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13 (1) ARTICLE.—The term “article” means a ma-  
14 terial or tangible object that could harbor a plant  
15 pest or noxious weed.

16 (2) BIOLOGICAL CONTROL ORGANISM.—The  
17 term “biological control organism” means an enemy,  
18 antagonist, or competitor organism used to control a  
19 plant pest or noxious weed.

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

22 (4) ENTRY.—The term “entry” means the act  
23 of movement into the commerce of the United  
24 States.

1           (5) EXPORT.—The term “export” means to  
2           move from the United States to any place outside  
3           the United States.

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

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

9           (8) IMPORTATION.—The term “importation”  
10          means the act of movement into the territorial limits  
11          of the United States.

12          (9) INTERSTATE.—The term “interstate”  
13          means—

14                (A) from 1 State into or through any other  
15                State; or

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

20          (10) INTERSTATE COMMERCE.—The term  
21          “interstate commerce” means trade, traffic, move-  
22          ment, or other commerce—

23                (A) between a place in a State and a point  
24                in another State;

1 (B) between points within the same State  
2 but through any place outside the State; or

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

7 (11) MEANS OF CONVEYANCE.—The term  
8 “means of conveyance” means any personal property  
9 that could harbor a pest, disease, or noxious weed  
10 and that is used for or intended for use for the  
11 movement of any other personal property.

12 (12) MOVE.—The term “move” means to—

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

15 (B) aid, abet, cause, or induce the car-  
16 rying, entering, importing, mailing, shipping, or  
17 transporting;

18 (C) offer to carry, enter, import, mail,  
19 ship, or transport;

20 (D) receive to carry, enter, import, mail,  
21 ship, or transport;

22 (E) release into the environment; or

23 (F) allow an agent to participate in any of  
24 the activities referred to in this paragraph.

1           (13) MOVEMENT.—The term “move” means the  
2    act of—

3           (A) carrying, entering, importing, mailing,  
4    shipping, or transporting;

5           (B) aiding, abetting, causing, or inducing  
6    the carrying, entering, importing, mailing, ship-  
7    ping, or transporting;

8           (C) offering to carry, enter, import, mail,  
9    ship, or transport;

10          (D) receiving to carry, enter, import, mail,  
11    ship, or transport;

12          (E) releasing into the environment; or

13          (F) allowing an agent to participate in any  
14    of the activities referred to in this paragraph.

15          (14) NOXIOUS WEED.—The term “noxious  
16    weed” means a plant or plant product that has the  
17    potential to directly or indirectly injure or cause  
18    damage to a plant or plant product through injury  
19    or damage to a crop (including nursery stock or a  
20    plant product), livestock, poultry, or other interest of  
21    agriculture (including irrigation), navigation, natural  
22    resources of the United States, public health, or the  
23    environment.

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

1 by the Secretary to move a plant, plant product, bio-  
 2 logical control organism, plant pest, noxious weed,  
 3 article, or means of conveyance under conditions  
 4 prescribed by the Secretary.

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

8 (17) PLANT.—The term “plant” means a plant  
 9 (including a plant part) for or capable of propaga-  
 10 tion (including a tree, tissue culture, plantlet cul-  
 11 ture, pollen, shrub, vine, cutting, graft, scion, bud,  
 12 bulb, root, and seed).

13 (18) PLANT PEST.—The term “plant pest”  
 14 means—

15 (A) a living stage of a protozoan, inverte-  
 16 brate animal, parasitic plant, bacteria, fungus,  
 17 virus, viroid, infection agent, or pathogen that  
 18 has the potential to directly or indirectly injure  
 19 or cause damage to, or cause disease in, a plant  
 20 or plant product; or

21 (B) an article that is similar to or allied  
 22 with an article referred to in subparagraph (A).

23 (19) PLANT PRODUCT.—The term “plant prod-  
 24 uct” means—



1 (A) a flower, fruit, vegetable, root, bulb,  
 2 seed, or other plant part that is not covered by  
 3 paragraph (17); and

4 (B) a manufactured or processed plant or  
 5 plant part.

6 (20) SECRETARY.—The term “Secretary”  
 7 means the Secretary of Agriculture.

8 (21) STATE.—The term “State” means each of  
 9 the several States of the United States, the District  
 10 of Columbia, the Commonwealth of Puerto Rico, the  
 11 Virgin Islands, Guam, the Commonwealth of the  
 12 Northern Mariana Islands, and any other territory  
 13 or possession of the United States.

14 (22) UNITED STATES.—The term “United  
 15 States”, when used in a geographical sense, means  
 16 all of the States.

## 17 **TITLE I—PLANT PROTECTION**

### 18 **SEC. 101. REGULATION OF MOVEMENT OF PLANT PESTS.**

19 (a) PROHIBITION OF UNAUTHORIZED MOVEMENT OF  
 20 PLANT PESTS.—Except as provided in subsection (b), no  
 21 person shall import, enter, export, or move in interstate  
 22 commerce a plant pest, unless the importation, entry, ex-  
 23 portation, or movement is authorized under general or  
 24 specific permit and is in accordance with such regulations  
 25 as the Secretary may promulgate to prevent the introduc-

1 tion of plant pests into the United States or the dissemina-  
 2 tion of plant pests within the United States.

3 (b) AUTHORIZATION OF MOVEMENT OF PLANT  
 4 PESTS BY REGULATION.—

5 (1) EXCEPTION TO PERMIT REQUIREMENT.—

6 The Secretary may promulgate regulations to allow  
 7 the importation, entry, exportation, or movement in  
 8 interstate commerce of specified plant pests without  
 9 further restriction if the Secretary finds that a per-  
 10 mit under subsection (a) is not necessary.

11 (2) PETITION TO ADD OR REMOVE PLANT  
 12 PESTS FROM REGULATION.—A person may petition  
 13 the Secretary to add a plant pest to, or remove a  
 14 plant pest from, the regulations promulgated under  
 15 paragraph (1).

16 (3) RESPONSE TO PETITION BY THE SEC-  
 17 RETARY.—In the case of a petition submitted under  
 18 paragraph (2), the Secretary shall—

19 (A) act on the petition within a reasonable  
 20 time; and

21 (B) notify the petitioner of the final action  
 22 the Secretary takes on the petition.

23 (4) BASIS FOR DETERMINATION.—The deter-  
 24 mination of the Secretary on the petition shall be  
 25 based on sound science.

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

3           (1) IN GENERAL.—Subject to section 304, a let-  
4 ter, parcel, box, or other package containing a plant  
5 pest, whether or not sealed as letter-rate postal mat-  
6 ter, is nonmailable and shall not knowingly be con-  
7 veyed in the mail or delivered from any post office  
8 or by any mail carrier, unless the package is mailed  
9 in compliance with such regulations as the Secretary  
10 may promulgate to prevent the dissemination of  
11 plant pests into the United States or interstate.

12           (2) APPLICATION OF POSTAL LAWS.—Nothing  
13 in this subsection authorizes a person to open a  
14 mailed letter or other mailed sealed matter except in  
15 accordance with the postal laws (including regula-  
16 tions).

17       (d) REGULATIONS.—Regulations promulgated by the  
18 Secretary to implement subsections (a), (b), or (c) may  
19 include provisions requiring that a plant pest imported,  
20 entered, to be exported, moved in interstate commerce,  
21 mailed, or delivered from a post office—

22           (1) be accompanied by a permit issued by the  
23 Secretary before the importation, entry, exportation,  
24 movement in interstate commerce, mailing, or deliv-  
25 ery of the plant pest;

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

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

12          (4) be subject to such remedial measures as the  
 13          Secretary determines are necessary to prevent the  
 14          dissemination of plant pests.

15 **SEC. 102. REGULATION OF MOVEMENT OF PLANTS, PLANT**  
 16 **PRODUCTS, BIOLOGICAL CONTROL ORGA-**  
 17 **NISMS, NOXIOUS WEEDS, ARTICLES, AND**  
 18 **MEANS OF CONVEYANCE.**

19          (a) IN GENERAL.—The Secretary may prohibit or re-  
 20          strict the importation, entry, exportation, or movement in  
 21          interstate commerce of a plant, plant product, biological  
 22          control organism, noxious weed, article, or means of con-  
 23          veyance, if the Secretary determines that the prohibition  
 24          or restriction is necessary to prevent the introduction into

1 the United States or the dissemination of a plant pest or  
2 noxious weed within the United States.

3 (b) REGULATIONS.—The Secretary may promulgate  
4 regulations to carry out this section, including regulations  
5 requiring that a plant, plant product, biological control or-  
6 ganism, noxious weed, article, or means of conveyance im-  
7 ported, entered, to be exported, or moved in interstate  
8 commerce—

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

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

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

21 (4) in the case of a plant or biological control  
22 organism, be grown or handled under post-entry  
23 quarantine conditions by or under the supervision of  
24 the Secretary for the purpose of determining wheth-  
25 er the plant or biological control organism may be

1 infested with a plant pest or noxious weed, or may  
 2 be a plant pest or noxious weed.

3 (c) LIST OF RESTRICTED NOXIOUS WEEDS.—

4 (1) PUBLICATION.—The Secretary may publish,  
 5 by regulation, a list of noxious weeds that are pro-  
 6 hibited or restricted from entering the United States  
 7 or that are subject to restrictions on interstate  
 8 movement within the United States.

9 (2) PETITIONS TO ADD PLANT SPECIES TO OR  
 10 REMOVE PLANT SPECIES FROM LIST.—

11 (A) IN GENERAL.—A person may petition  
 12 the Secretary to add a plant species to, or re-  
 13 move a plant species from, the list authorized  
 14 under paragraph (1).

15 (B) ACTION ON PETITION.—The Secretary  
 16 shall—

17 (i) act on the petition within a reason-  
 18 able time; and

19 (ii) notify the petitioner of the final  
 20 action the Secretary takes on the petition.

21 (C) BASIS FOR DETERMINATION.—The de-  
 22 termination of the Secretary on the petition  
 23 shall be based on sound science.

24 (d) LIST OF BIOLOGICAL CONTROL ORGANISMS.—

1           (1) PUBLICATION.—The Secretary may publish,  
 2           by regulation, a list of biological control organisms  
 3           the movement of which in interstate commerce is not  
 4           prohibited or restricted.

5           (2) DISTINCTIONS.—In publishing the list, the  
 6           Secretary may take into account distinctions be-  
 7           tween biological control organisms, such as whether  
 8           the organisms are indigenous, nonindigenous, newly  
 9           introduced, or commercially raised.

10          (3) PETITIONS TO ADD BIOLOGICAL CONTROL  
 11          ORGANISMS TO OR REMOVE BIOLOGICAL CONTROL  
 12          ORGANISMS FROM LIST.—

13               (A) IN GENERAL.—A person may petition  
 14               the Secretary to add a biological control orga-  
 15               nism to, or remove a biological control organism  
 16               from, the list authorized under paragraph (1).

17               (B) ACTION ON PETITION.—The Secretary  
 18               shall—

19                     (i) act on the petition within a reason-  
 20                     able time; and

21                     (ii) notify the petitioner of the final  
 22                     action the Secretary takes on the petition.

23               (C) BASIS FOR DETERMINATION.—The de-  
 24               termination of the Secretary on the petition  
 25               shall be based on sound science.

1 **SEC. 103. NOTIFICATION AND HOLDING REQUIREMENTS ON**  
2 **ARRIVAL.**

3 (a) DUTY OF SECRETARY OF THE TREASURY.—

4 (1) NOTIFICATION.—The Secretary of the  
5 Treasury shall promptly notify the Secretary of Ag-  
6 riculture of the arrival of a plant, plant product, bio-  
7 logical control organism, plant pest, or noxious weed  
8 at a port of entry.

9 (2) HOLDING.—The Secretary of the Treasury  
10 shall hold a plant, plant product, biological control  
11 organism, plant pest, or noxious weed, for which no-  
12 tification is made under paragraph (1) at the port  
13 of entry until the plant, plant product, biological  
14 control organism, plant pest, or noxious weed is—

15 (A) inspected and authorized by the Sec-  
16 retary of Agriculture for entry into or move-  
17 ment through the United States; or

18 (B) otherwise released by the Secretary of  
19 Agriculture.

20 (3) EXCEPTIONS.—Paragraphs (1) and (2)  
21 shall not apply to a plant, plant product, biological  
22 control organism, plant pest, or noxious weed that is  
23 imported from a country or region of a country des-  
24 ignated by the Secretary of Agriculture, by regula-  
25 tion, as exempt from the requirements of those para-  
26 graphs.



1 (b) NOTIFICATION BY RESPONSIBLE PERSON.—The  
 2 person responsible for a plant, plant product, biological  
 3 control organism, plant pest, noxious weed, article, or  
 4 means of conveyance required to have a permit under sec-  
 5 tion 101 or 102 shall, as soon as practicable on arrival  
 6 at the port of entry and before the plant, plant product,  
 7 biological control organism, plant pest, noxious weed, arti-  
 8 cle, or means of conveyance is moved from the port of  
 9 entry, notify the Secretary of Agriculture or, at the Sec-  
 10 retary of Agriculture's direction, the proper official of the  
 11 State to which the plant, plant product, biological control  
 12 organism, plant pest, noxious weed, article, or means of  
 13 conveyance is destined, or both, as the Secretary of Agri-  
 14 culture may prescribe, of—

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

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

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

24 (c) PROHIBITION OF MOVEMENT OF ITEMS WITHOUT  
 25 INSPECTION AND AUTHORIZATION.—No person shall

1 move from a port of entry or interstate an imported plant,  
 2 plant product, biological control organism, plant pest, nox-  
 3 ious weed, article, or means of conveyance unless the im-  
 4 ported plant, plant product, biological control organism,  
 5 plant pest, noxious weed, article, or means of conveyance  
 6 has been—

7 (1) inspected and authorized by the Secretary  
 8 of Agriculture for entry into or movement through  
 9 the United States; or

10 (2) otherwise released by the Secretary of Agri-  
 11 culture.

12 **SEC. 104. GENERAL REMEDIAL MEASURES FOR NEW PLANT**  
 13 **PESTS AND NOXIOUS WEEDS.**

14 (a) **AUTHORITY TO HOLD, TREAT, OR DESTROY**  
 15 **ITEMS.**—If the Secretary considers it necessary to prevent  
 16 the dissemination of a plant pest or noxious weed that is  
 17 new to or not known to be widely prevalent or distributed  
 18 within and throughout the United States, the Secretary  
 19 may hold, seize, quarantine, treat, apply other remedial  
 20 measures to, destroy, or otherwise dispose of a plant, plant  
 21 product, biological control organism, plant pest, noxious  
 22 weed, article, or means of conveyance that—

23 (1)(A) is moving into or through the United  
 24 States or interstate, or has moved into or through  
 25 the United States or interstate; and

1 (B)(i) the Secretary has reason to believe is a  
 2 plant pest or noxious weed or is infested with a  
 3 plant pest or noxious weed at the time of the move-  
 4 ment; or

5 (ii) is or has been otherwise in violation of this  
 6 Act;

7 (2) has not been maintained in compliance with  
 8 a post-entry quarantine requirement; or

9 (3) is the progeny of a plant, plant product, bi-  
 10 ological control organism, plant pest, or noxious  
 11 weed that is moving into or through the United  
 12 States or interstate, or has moved into the United  
 13 States or interstate, in violation of this Act.

14 (b) AUTHORITY TO ORDER AN OWNER TO TREAT OR  
 15 DESTROY.—

16 (1) IN GENERAL.—The Secretary may order the  
 17 owner of a plant, plant product, biological control or-  
 18 ganism, plant pest, noxious weed, article, or means  
 19 of conveyance subject to action under subsection (a),  
 20 or the owner's agent, to treat, apply other remedial  
 21 measures to, destroy, or otherwise dispose of the  
 22 plant, plant product, biological control organism,  
 23 plant pest, noxious weed, article, or means of con-  
 24 veyance, without cost to the Federal Government

1 and in a manner the Secretary considers appro-  
2 priate.

3 (2) FAILURE TO COMPLY.—If the owner or  
4 agent of the owner fails to comply with an order of  
5 the Secretary under paragraph (1), the Secretary  
6 may take an action authorized by subsection (a) and  
7 recover from the owner or agent of the owner the  
8 costs of any care, handling, application of remedial  
9 measures, or disposal incurred by the Secretary in  
10 connection with actions taken under subsection (a).

11 (c) CLASSIFICATION SYSTEM.—

12 (1) IN GENERAL.—To facilitate control of nox-  
13 ious weeds, the Secretary may develop a classifica-  
14 tion system to describe the status and action levels  
15 for noxious weeds.

16 (2) CATEGORIES.—The classification system  
17 may include the geographic distribution, relative  
18 threat, and actions initiated to prevent introduction  
19 or distribution.

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

1 (d) APPLICATION OF LEAST DRASTIC ACTION.—No  
 2 plant, plant product, biological control organism, plant  
 3 pest, noxious weed, article, or means of conveyance shall  
 4 be destroyed, exported, or returned to the shipping point  
 5 of origin, or ordered to be destroyed, exported, or returned  
 6 to the shipping point of origin under this section unless,  
 7 in the opinion of the Secretary, there is no less drastic  
 8 action that is feasible and that would be adequate to pre-  
 9 vent the dissemination of any plant pest or noxious weed  
 10 new to or not known to be widely prevalent or distributed  
 11 within and throughout the United States.

12 **SEC. 105. EXTRAORDINARY EMERGENCIES.**

13 (a) AUTHORITY TO DECLARE.—Subject to subsection  
 14 (b), if the Secretary determines that an extraordinary  
 15 emergency exists because of the presence of a plant pest  
 16 or noxious weed that is new to or not known to be widely  
 17 prevalent in or distributed within and throughout the  
 18 United States and that the presence of the plant pest or  
 19 noxious weed threatens plants or plant products of the  
 20 United States, the Secretary may—

21 (1) hold, seize, quarantine, treat, apply other  
 22 remedial measures to, destroy, or otherwise dispose  
 23 of, a plant, plant product, biological control orga-  
 24 nism, article, or means of conveyance that the Sec-

1       retary has reason to believe is infested with the  
2       plant pest or noxious weed;

3           (2) quarantine, treat, or apply other remedial  
4       measures to any premises, including a plant, plant  
5       product, biological control organism, article, or  
6       means of conveyance on the premises, that the Sec-  
7       retary has reason to believe is infested with the  
8       plant pest or noxious weed;

9           (3) quarantine a State or portion of a State in  
10      which the Secretary finds the plant pest or noxious  
11      weed or a plant, plant product, biological control or-  
12      ganism, article, or means of conveyance that the  
13      Secretary has reason to believe is infested with the  
14      plant pest or noxious weed; or

15          (4) prohibit or restrict the movement within a  
16      State of a plant, plant product, biological control or-  
17      ganism, article, or means of conveyance if the Sec-  
18      retary determines that the prohibition or restriction  
19      is necessary to prevent the dissemination of the  
20      plant pest or noxious weed or to eradicate the plant  
21      pest or noxious weed.

22      (b) REQUIRED FINDING OF EMERGENCY.—The Sec-  
23      retary may take action under this section only on finding,  
24      after review and consultation with the Governor or other  
25      appropriate official of the State affected, that the meas-

1 ures being taken by the State are inadequate to prevent  
 2 the dissemination of the plant pest or noxious weed or to  
 3 eradicate the plant pest or noxious weed.

4 (c) NOTIFICATION PROCEDURES.—

5 (1) IN GENERAL.—Before any action is taken  
 6 in a State under this section, the Secretary shall—

7 (A) notify the Governor or another appro-  
 8 priate official of the State;

9 (B) issue a public announcement; and

10 (C) except as provided in paragraph (2),  
 11 publish in the Federal Register a statement  
 12 of—

13 (i) the findings of the Secretary;

14 (ii) the action the Secretary intends to  
 15 take;

16 (iii) the reason for the intended ac-  
 17 tion; and

18 (iv) if practicable, an estimate of the  
 19 anticipated duration of the extraordinary  
 20 emergency.

21 (2) TIME SENSITIVE ACTIONS.—If it is not  
 22 practicable to publish a statement in the Federal  
 23 Register under paragraph (1) before taking an ac-  
 24 tion under this section, the Secretary shall publish  
 25 the statement in the Federal Register within a rea-

1       sonable period of time, not to exceed 10 business  
2       days, after commencement of the action.

3       (d) APPLICATION OF LEAST DRASTIC ACTION.—No  
4       plant, plant product, biological control organism, plant  
5       pest, noxious weed, article, or means of conveyance shall  
6       be destroyed, exported, or returned to the shipping point  
7       of origin, or ordered to be destroyed, exported, or returned  
8       to the shipping point of origin under this section unless,  
9       in the opinion of the Secretary, there is no less drastic  
10      action that is feasible and that would be adequate to pre-  
11      vent the dissemination of a plant pest or noxious weed  
12      new to or not known to be widely prevalent or distributed  
13      within and throughout the United States.

14      (e) PAYMENT OF COMPENSATION.—

15           (1) IN GENERAL.—The Secretary may pay com-  
16      pensation to a person for economic losses incurred  
17      by the person as a result of action taken by the Sec-  
18      retary under this section.

19           (2) AMOUNT.—The determination by the Sec-  
20      retary of the amount of any compensation to be paid  
21      under this subsection shall be final and shall not be  
22      subject to judicial review.



1 **SEC. 106. RECOVERY OF COMPENSATION FOR UNAUTHOR-**  
2 **IZED ACTIVITIES.**

3 (a) RECOVERY ACTION.—The owner of a plant, plant  
4 product, biological control organism, plant pest, noxious  
5 weed, article, or means of conveyance destroyed or other-  
6 wise disposed of by the Secretary under section 104 or  
7 105 may bring an action against the United States to re-  
8 cover just compensation for the destruction or disposal of  
9 the plant, plant product, biological control organism, plant  
10 pest, noxious weed, article, or means of conveyance (not  
11 including compensation for loss due to delays incident to  
12 determining eligibility for importation, entry, exportation,  
13 movement in interstate commerce, or release into the envi-  
14 ronment) if the owner establishes that the destruction or  
15 disposal was not authorized under this Act.

16 (b) TIME FOR ACTION; LOCATION.—

17 (1) TIME FOR ACTION.—An action under this  
18 section shall be brought not later than 1 year after  
19 the destruction or disposal of the plant, plant prod-  
20 uct, biological control mechanism, plant pest, nox-  
21 ious weed, article, or means of conveyance involved.

22 (2) LOCATION.—The action may be brought in  
23 a United States District Court where the owner is  
24 found, resides, transacts business, is licensed to do  
25 business, or is incorporated.

1       (c) PAYMENT OF JUDGMENTS.—A judgment in favor  
 2 of the owner shall be paid out of any money in the Treas-  
 3 ury appropriated for plant pest control activities of the  
 4 Department of Agriculture.

5 **SEC. 107. CONTROL OF GRASSHOPPERS AND MORMON**  
 6 **CRICKETS.**

7       (a) IN GENERAL.—Subject to the availability of  
 8 funds under this section, the Secretary of Agriculture shall  
 9 carry out a program to control grasshoppers and Mormon  
 10 Crickets on all Federal land to protect rangeland.

11       (b) TRANSFER AUTHORITY.—

12           (1) IN GENERAL.—Subject to paragraph (3), on  
 13 the request of the Secretary of Agriculture, the Sec-  
 14 retary of the Interior shall transfer to the Secretary  
 15 of Agriculture, from any no-year appropriations,  
 16 funds for the prevention, suppression, and control of  
 17 actual or potential grasshopper and Mormon Cricket  
 18 outbreaks on Federal land under the jurisdiction of  
 19 the Secretary of the Interior.

20           (2) USE.—The transferred funds shall be avail-  
 21 able only for the payment of obligations incurred on  
 22 the Federal land.

23           (3) TRANSFER REQUESTS.—The Secretary of  
 24 Agriculture shall make a request for the transfer of

1 funds under this subsection as promptly as prac-  
 2 ticable.

3 (4) LIMITATION.—The Secretary of Agriculture  
 4 may not use funds transferred under this subsection  
 5 until funds specifically appropriated to the Secretary  
 6 of Agriculture for grasshopper and Mormon Cricket  
 7 control have been exhausted.

8 (5) REPLENISHMENT OF TRANSFERRED  
 9 FUNDS.—Funds transferred under this section shall  
 10 be replenished by supplemental or regular appropria-  
 11 tions, which the Secretary of Agriculture shall re-  
 12 quest as promptly as practicable.

13 (c) TREATMENT FOR GRASSHOPPERS AND MORMON  
 14 CRICKETS.—

15 (1) IN GENERAL.—Subject to the availability of  
 16 funds under this section, on request of the head of  
 17 the administering agency or the agriculture depart-  
 18 ment of an affected State, the Secretary of Agri-  
 19 culture, to protect rangeland, shall immediately treat  
 20 Federal, State, or private land that is infested with  
 21 grasshoppers or Mormon Crickets at levels of eco-  
 22 nomic infestation, unless the Secretary of Agri-  
 23 culture determines that delaying treatment will not  
 24 cause greater economic damage to adjacent owners  
 25 of rangeland.

1           (2) OTHER PROGRAMS.—In carrying out this  
2       section, the Secretary of Agriculture shall work in  
3       conjunction with other Federal, State, and private  
4       prevention, control, or suppression efforts to protect  
5       rangeland.

6       (d) FEDERAL COST SHARE OF TREATMENT.—

7           (1) CONTROL ON FEDERAL LAND.—Out of  
8       funds made available under this section, the Sec-  
9       retary of Agriculture shall pay 100 percent of the  
10      cost of grasshopper or Mormon Cricket control on  
11      Federal land to protect rangeland.

12          (2) CONTROL ON STATE LAND.—Out of funds  
13      made available under this section, the Secretary of  
14      Agriculture shall pay 50 percent of the cost of grass-  
15      hopper or Mormon Cricket control on State land.

16          (3) CONTROL ON PRIVATE LAND.—Out of funds  
17      made available under this section, the Secretary of  
18      Agriculture shall pay 33.3 percent of the cost of  
19      grasshopper or Mormon Cricket control on private  
20      land.

21       (e) TRAINING.—From funds made available or trans-  
22      ferred by the Secretary of the Interior to the Secretary  
23      of Agriculture to carry out this section, the Secretary of  
24      Agriculture shall provide adequate funding for a program

1 to train personnel to accomplish effectively the purposes  
2 of this section.

3 **SEC. 108. CERTIFICATION FOR EXPORTS.**

4 The Secretary may certify a plant, plant product, or  
5 biological control organism as free from plant pests and  
6 noxious weeds, and exposure to plant pests and noxious  
7 weeds, according to the phytosanitary or other require-  
8 ments of the countries to which the plant, plant product,  
9 or biological control organism may be exported.

10 **TITLE II—INSPECTION AND**  
11 **ENFORCEMENT**

12 **SEC. 201. INSPECTIONS AND WARRANTS.**

13 (a) IN GENERAL.—Consistent with guidelines ap-  
14 proved by the Attorney General, the Secretary may—

15 (1) stop and inspect, without a warrant, a per-  
16 son or means of conveyance moving into the United  
17 States to determine whether the person or means of  
18 conveyance is carrying a plant, plant product, bio-  
19 logical control organism, plant pest, noxious weed,  
20 article, or means of conveyance subject to this Act;

21 (2) stop and inspect, without a warrant, a per-  
22 son or means of conveyance moving in interstate  
23 commerce on probable cause to believe that the per-  
24 son or means of conveyance is carrying a plant,  
25 plant product, biological control organism, plant

1       pest, noxious weed, article, or means of conveyance  
2       subject to this Act;

3           (3) stop and inspect, without a warrant, a per-  
4       son or means of conveyance moving in intrastate  
5       commerce or on premises quarantined as part of an  
6       extraordinary emergency declared under section 105  
7       on probable cause to believe that the person or  
8       means of conveyance is carrying a plant, plant prod-  
9       uct, biological control organism, plant pest, noxious  
10      weed, article, or means of conveyance subject to this  
11      Act; and

12          (4) enter, with a warrant, a premises in the  
13      United States for the purpose of conducting inves-  
14      tigations or making inspections under this Act.

15      (b) WARRANTS.—

16          (1) IN GENERAL.—A United States judge, a  
17      judge of a court of record in the United States, or  
18      a United States magistrate judge may, on proper  
19      oath or affirmation showing probable cause to be-  
20      lieve that there is on certain premises a plant, plant  
21      product, biological control organism, plant pest, nox-  
22      ious weed, article, or means of conveyance regulated  
23      under this Act, issue a warrant for entry on the  
24      premises to conduct an investigation or make an in-  
25      spection under this Act.

1           (2) EXECUTION.—The warrant may be applied  
2       for and executed by the Secretary or a United States  
3       marshal.

4   **SEC. 202. COLLECTION OF INFORMATION.**

5       The Secretary may gather and compile information  
6   and conduct such investigations as the Secretary considers  
7   necessary for the administration and enforcement of this  
8   Act.

9   **SEC. 203. SUBPOENA AUTHORITY.**

10       (a) AUTHORITY TO ISSUE.—The Secretary may re-  
11   quire by subpoena—

12           (1) the attendance and testimony of a witness;  
13       and

14           (2) the production of all documentary evidence  
15   relating to the administration or enforcement of this  
16   Act or a matter under investigation in connection  
17   with this Act.

18       (b) LOCATION OF PRODUCTION.—The attendance of  
19   a witness and production of documentary evidence may be  
20   required from any place in the United States at any des-  
21   ignated place of hearing.

22       (c) ENFORCEMENT OF SUBPOENA.—If a person fails  
23   to comply with a subpoena, the Secretary may request the  
24   Attorney General to invoke the aid of a court of the United  
25   States within the jurisdiction in which the investigation

1 is conducted, or where the person resides, is found, trans-  
2 acts business, is licensed to do business, or is incorporated,  
3 in obtaining compliance.

4 (d) FEES AND MILEAGE.—

5 (1) IN GENERAL.—A witness summoned by the  
6 Secretary shall be paid the same fees and mileage  
7 that are paid to a witness in a court of the United  
8 States.

9 (2) DEPOSITIONS.—A witness whose deposition  
10 is taken, and the person taking the deposition, shall  
11 be entitled to the same fees that are paid for similar  
12 services in a court of the United States.

13 (e) PROCEDURES.—

14 (1) IN GENERAL.—The Secretary shall publish  
15 procedures for the issuance of subpoenas under this  
16 section.

17 (2) LEGAL SUFFICIENCY.—The procedures  
18 shall include a requirement that a subpoena be re-  
19 viewed for legal sufficiency and signed by the Sec-  
20 retary.

21 (3) DELEGATION.—If the authority to sign a  
22 subpoena is delegated, the agency receiving the dele-  
23 gation shall seek review for legal sufficiency outside  
24 that agency.



1 (f) SCOPE OF SUBPOENA.—A subpoena for a witness  
 2 to attend a court in a judicial district or to testify or  
 3 produce evidence at an administrative hearing in a judicial  
 4 district in an action or proceeding arising under this Act  
 5 may run to any other judicial district.

6 **SEC. 204. PENALTIES FOR VIOLATION.**

7 (a) CRIMINAL PENALTIES.—A person that knowingly  
 8 violates this Act, or that knowingly forges, counterfeits,  
 9 or, without authority from the Secretary, uses, alters, de-  
 10 faces, or destroys a certificate, permit, or other document  
 11 provided under this Act shall be guilty of a misdemeanor,  
 12 and, on conviction, shall be fined in accordance with title  
 13 18, United States Code, imprisoned not more than 1 year,  
 14 or both.

15 (b) CIVIL PENALTIES.—

16 (1) IN GENERAL.—A person that violates this  
 17 Act, or that forges, counterfeits, or, without author-  
 18 ity from the Secretary, uses, alters, defaces, or de-  
 19 stroy a certificate, permit, or other document pro-  
 20 vided under this Act may, after notice and oppor-  
 21 tunity for a hearing on the record, be assessed a  
 22 civil penalty by the Secretary that does not exceed  
 23 the greater of—

24 (A) \$50,000 in the case of an individual  
 25 (except that the civil penalty may not exceed

1           \$1,000 in the case of an initial violation of this  
2           Act by an individual moving regulated articles  
3           not for monetary gain), or \$250,000 in the case  
4           of any other person for each violation, except  
5           the amount of penalties assessed under this  
6           subparagraph in a single proceeding shall not  
7           exceed \$500,000; or

8           (B) twice the gross gain or gross loss for  
9           a violation or forgery, counterfeiting, or unau-  
10          thorized use, defacing or destruction of a cer-  
11          tificate, permit, or other document provided for  
12          in this Act that results in the person's deriving  
13          pecuniary gain or causing pecuniary loss to an-  
14          other person.

15          (2) FACTORS IN DETERMINING CIVIL PEN-  
16          ALTY.—In determining the amount of a civil penalty,  
17          the Secretary—

18                (A) shall take into account the nature, cir-  
19                cumstance, extent, and gravity of the violation;  
20                and

21                (B) may take into account the ability to  
22                pay, the effect on ability to continue to do busi-  
23                ness, any history of prior violations, the degree  
24                of culpability of the violator, and any other fac-  
25                tors the Secretary considers appropriate.

1           (3) SETTLEMENT OF CIVIL PENALTIES.—The  
 2       Secretary may compromise, modify, or remit, with or  
 3       without conditions, a civil penalty that may be as-  
 4       sessed under this subsection.

5           (4) FINALITY OF ORDERS.—

6           (A) IN GENERAL.—An order of the Sec-  
 7       retary assessing a civil penalty shall be treated  
 8       as a final order reviewable under chapter 158  
 9       of title 28, United States Code.

10          (B) COLLECTION ACTION.—The validity of  
 11       an order of the Secretary may not be reviewed  
 12       in an action to collect the civil penalty.

13          (C) INTEREST.—A civil penalty not paid in  
 14       full when due under an order assessing the civil  
 15       penalty shall (after the due date) accrue inter-  
 16       est until paid at the rate of interest applicable  
 17       to a civil judgment of the courts of the United  
 18       States.

19          (c) LIABILITY FOR ACTS OF AN AGENT.—For pur-  
 20       poses of this Act, the act, omission, or failure of an officer,  
 21       agent, or person acting for or employed by any other per-  
 22       son within the scope of employment or office of the officer,  
 23       agent, or person, shall be considered to be the act, omis-  
 24       sion, or failure of the other person.

1 (d) GUIDELINES FOR CIVIL PENALTIES.—The Sec-  
 2 retary shall coordinate with the Attorney General to estab-  
 3 lish guidelines to determine under what circumstances the  
 4 Secretary may issue a civil penalty or suitable notice of  
 5 warning in lieu of prosecution by the Attorney General of  
 6 a violation of this Act.

7 **SEC. 205. ENFORCEMENT ACTIONS OF ATTORNEY GEN-**  
 8 **ERAL.**

9 The Attorney General may—

10 (1) prosecute, in the name of the United States,  
 11 a criminal violation of this Act that is referred to  
 12 the Attorney General by the Secretary or is brought  
 13 to the notice of the Attorney General by any person;

14 (2) bring a civil action to enjoin the violation of  
 15 or to compel compliance with this Act, or to enjoin  
 16 any interference by a person with the Secretary in  
 17 carrying out this Act, if the Attorney General has  
 18 reason to believe that the person has violated or is  
 19 about to violate this Act, or has interfered, or is  
 20 about to interfere, with the Secretary; and

21 (3) bring a civil action for the recovery of an  
 22 unpaid civil penalty, funds under a reimbursable  
 23 agreement, late payment penalty, or interest as-  
 24 sessed under this Act.

1 **SEC. 206. COURT JURISDICTION.**

2 (a) IN GENERAL.—Except as provided in section  
3 204(b), a United States district court, the District Court  
4 of Guam, the District Court of the Virgin Islands, the  
5 highest court of American Samoa, and the United States  
6 courts of other territories and possessions are vested with  
7 jurisdiction in all cases arising under this Act.

8 (b) LOCATION.—An action arising under this Act  
9 may be brought, and process may be served, in the judicial  
10 district where—

11 (1) a violation or interference occurred or is  
12 about to occur; or

13 (2) the person charged with the violation, inter-  
14 ference, impending violation, impending interference,  
15 or failure to pay resides, is found, transacts busi-  
16 ness, is licensed to do business, or is incorporated.

17 **TITLE III—MISCELLANEOUS**  
18 **PROVISIONS**

19 **SEC. 301. COOPERATION.**

20 (a) IN GENERAL.—To carry out this Act, the Sec-  
21 retary may cooperate with—

- 22 (1) other Federal agencies or entities;
- 23 (2) States or political subdivisions of States;
- 24 (3) national governments;
- 25 (4) local governments of other nations;
- 26 (5) domestic or international organizations;

- 1           (6) domestic or international associations; and  
2           (7) other persons.

3       (b) RESPONSIBILITY.—The individual or entity co-  
4 operating with the Secretary shall be responsible for—

- 5           (1) obtaining the authority necessary for con-  
6 ducting the operations or taking measures on all  
7 land and property within the foreign country or  
8 State, other than land and property owned or con-  
9 trolled by the United States; and  
10          (2) other facilities and means determined by the  
11 Secretary.

12       (c) TRANSFER OF BIOLOGICAL CONTROL METH-  
13 ODS.—The Secretary may transfer to a Federal or State  
14 agency or other person biological control methods using  
15 biological control organisms against plant pests or noxious  
16 weeds.

17       (d) COOPERATION IN PROGRAM ADMINISTRATION.—  
18 The Secretary may cooperate with State authorities or  
19 other persons in the administration of programs for the  
20 improvement of plants, plant products, and biological con-  
21 trol organisms.

22 **SEC. 302. BUILDINGS, LAND, PEOPLE, CLAIMS, AND AGREE-**  
23 **MENTS.**

24       (a) IN GENERAL.—The Secretary may acquire and  
25 maintain such real or personal property, and employ such

1 persons, make such grants, and enter into such contracts,  
 2 cooperative agreements, memoranda of understanding, or  
 3 other agreements, as are necessary to carry out this Act.

4 (b) TORT CLAIMS.—

5 (1) IN GENERAL.—Except as provided in para-  
 6 graph (2), the Secretary may pay a tort claim (in  
 7 the manner authorized in the first paragraph of sec-  
 8 tion 2672 of title 28, United States Code) if the  
 9 claim arises outside the United States in connection  
 10 with an activity authorized under this Act.

11 (2) REQUIREMENTS OF CLAIM.—A claim may  
 12 not be allowed under paragraph (1) unless the claim  
 13 is presented in writing to the Secretary not later  
 14 than 2 years after the claim arises.

15 **SEC. 303. REIMBURSABLE AGREEMENTS.**

16 (a) PRECLEARANCE.—

17 (1) IN GENERAL.—The Secretary may enter  
 18 into a reimbursable fee agreement with a person for  
 19 preclearance (at a location outside the United  
 20 States) of plants, plant products, biological control  
 21 organisms, articles, and means of conveyance for  
 22 movement to the United States.

23 (2) ACCOUNT.—All funds collected under this  
 24 subsection shall be credited to an account that—

1 (A) may be established by the Secretary;  
2 and

3 (B) if established, shall remain available  
4 for preclearance activities until expended.

5 (b) OVERTIME.—

6 (1) IN GENERAL.—Notwithstanding any other  
7 law, the Secretary may pay an employee of the De-  
8 partment of Agriculture performing services under  
9 this Act relating to imports into and exports from  
10 the United States, for all overtime, night, or holiday  
11 work performed by the employee, at a rate of pay  
12 determined by the Secretary.

13 (2) REIMBURSEMENT OF SECRETARY.—The  
14 Secretary may require a person for whom the serv-  
15 ices are performed to reimburse the Secretary for  
16 funds paid by the Secretary for the services.

17 (3) ACCOUNT.—All funds collected under this  
18 subsection shall be credited to the account that in-  
19 curs the costs and remain available until expended.

20 (c) LATE PAYMENT PENALTY AND INTEREST.—

21 (1) COLLECTION.—On failure of a person to re-  
22 imburse the Secretary in accordance with this sec-  
23 tion, the Secretary may assess a late payment pen-  
24 alty against the person.



1           (2) INTEREST.—Overdue funds due the Sec-  
 2       retary under this section shall accrue interest in ac-  
 3       cordance with section 3717 of title 31, United States  
 4       Code.

5           (3) ACCOUNT.—A late payment penalty and ac-  
 6       crued interest shall be credited to the account that  
 7       incurs the costs and shall remain available until ex-  
 8       pended.

9       **SEC. 304. PROTECTION FOR MAIL HANDLERS.**

10       This Act shall not apply to an employee of the United  
 11       States in the performance of the duties of the employee  
 12       in handling the mail.

13       **SEC. 305. PREEMPTION.**

14       (a) REGULATION OF FOREIGN COMMERCE.—No  
 15       State or political subdivision of a State may—

16           (1) regulate in foreign commerce a plant, plant  
 17       product, biological control organism, plant pest, nox-  
 18       ious weed, article, or means of conveyance; or

19           (2) in order to control a plant pest or noxious  
 20       weed—

21           (A) eradicate a plant pest or noxious weed;

22           or

23           (B) prevent the introduction or dissemina-  
 24       tion of a biological control organism, plant pest,  
 25       or noxious weed.

1 (b) REGULATION OF INTERSTATE COMMERCE.—

2 (1) IN GENERAL.—Except as provided in para-  
 3 graph (2), if the Secretary has promulgated a regu-  
 4 lation or order to prevent the dissemination of a  
 5 plant, plant product, biological control organism,  
 6 plant pest, or noxious weed within the United  
 7 States, no State or political subdivision of a State  
 8 may—

9 (A) regulate the movement in interstate  
 10 commerce of the plant, plant product, biological  
 11 control organism, plant pest, noxious weed, arti-  
 12 cle, or means of conveyance; or

13 (B) in order to control the plant pest or  
 14 noxious weed—

15 (i) eradicate the plant pest or noxious  
 16 weed; or

17 (ii) prevent the introduction or dis-  
 18 semination of the biological control orga-  
 19 nism, plant pest, or noxious weed.

20 (2) EXCEPTIONS.—

21 (A) REGULATIONS CONSISTENT WITH FED-  
 22 ERAL REGULATIONS.—Except as provided in  
 23 subparagraph (B), a State or a political sub-  
 24 division of a State may impose a prohibition or  
 25 restriction on the movement in interstate com-

1 merce of plants, plant products, biological con-  
2 trol organisms, plant pests, noxious weeds, arti-  
3 cles, or means of conveyance that are consistent  
4 with and do not exceed the requirements of the  
5 regulations promulgated or orders issued by the  
6 Secretary under this Act.

7 (B) SPECIAL LOCAL NEED.—A State or  
8 political subdivision of a State may impose a  
9 prohibition or restriction on the movement in  
10 interstate commerce of plants, plant products,  
11 biological control organisms, plant pests, nox-  
12 ious weeds, articles, or means of conveyance,  
13 that are in addition to a prohibition or restric-  
14 tion imposed by the Secretary, if the State or  
15 political subdivision of a State demonstrates to  
16 the Secretary and the Secretary finds that there  
17 is a special need for additional prohibitions or  
18 restrictions based on sound scientific data or a  
19 thorough risk assessment.

20 **SEC. 306. REGULATIONS AND ORDERS.**

21 The Secretary may promulgate such regulations, and  
22 issue such orders, as the Secretary considers necessary to  
23 carry out this Act.

1 **SEC. 307. REPEAL OF SUPERSEDED LAWS.**

2 (a) REPEAL.—The following provisions of law are re-  
3 pealed:

4 (1) Subsections (a) through (e) of section 102  
5 of the Department of Agriculture Organic Act of  
6 1944 (7 U.S.C. 147a).

7 (2) Section 1773 of the Food Security Act of  
8 1985 (7 U.S.C. 148f).

9 (3) The Golden Nematode Act (7 U.S.C. 150 et  
10 seq.).

11 (4) The Federal Plant Pest Act (7 U.S.C.  
12 150aa et seq.).

13 (5) The Joint Resolution of April 6, 1937 (56  
14 Stat. 57, chapter 69; 7 U.S.C. 148 et seq.).

15 (6) The Act of January 31, 1942 (56 Stat. 40,  
16 chapter 31; 7 U.S.C. 149).

17 (7) The Act of August 20, 1912 (commonly  
18 known as the “Plant Quarantine Act”) (37 Stat.  
19 315, chapter 308; 7 U.S.C. 151 et seq.).

20 (8) The Halogeton Glomeratus Control Act (7  
21 U.S.C. 1651 et seq.).

22 (9) The Act of August 28, 1950 (64 Stat. 561,  
23 chapter 815; 7 U.S.C. 2260).

24 (10) The Federal Noxious Weed Act of 1974 (7  
25 U.S.C. 2801 et seq.), other than the first section

1 and section 15 of that Act (7 U.S.C. 2801 note,  
2 2814).

3 (b) EFFECT ON REGULATIONS.—Regulations pro-  
4 mulgated under the authority of a provision of law re-  
5 pealed by subsection (a) shall remain in effect until such  
6 time as the Secretary promulgates a regulation under sec-  
7 tion 306 that supersedes the earlier regulation.

## 8 **TITLE IV—FEDERAL** 9 **COORDINATION**

### 10 **SEC. 401. DEFINITIONS.**

11 In this title:

12 (1) ACTION PLAN.—The term “Action Plan”  
13 means the National Invasive Species Action Plan de-  
14 veloped and submitted to Congress under section  
15 404, including any updates to the Action Plan.

16 (2) ALIEN SPECIES.—The term “alien species”  
17 means, with respect to a particular ecosystem, any  
18 species, including its seeds, eggs, spores, or other bi-  
19 ological material capable of propagating the species,  
20 that is not native to that ecosystem.

21 (3) CONTROL.—The term “control” means—  
22 (A) the suppression, reduction, or manage-  
23 ment of invasive species populations;

1 (B) the prevention of the spread of  
2 invasive species from areas where the species  
3 are present; and

4 (C) the taking of measures such as the res-  
5 toration of native species and habitats to reduce  
6 the effects of invasive species and to prevent  
7 further invasions.

8 (4) COUNCIL.—The term “Council” means the  
9 Invasive Species Council established by section 402.

10 (5) ECOSYSTEM.—The term “ecosystem”  
11 means the complex of a community of organisms  
12 and the community’s environment.

13 (6) FEDERAL AGENCY.—The term “Federal  
14 agency” has the meaning given the term “agency”  
15 in section 551 of title 5, United States Code, except  
16 that the term does not include an independent estab-  
17 lishment (as defined in section 104 of title 5, United  
18 States Code).

19 (7) INTRODUCTION.—The term “introduction”  
20 means the intentional or unintentional escape, re-  
21 lease, dissemination, or placement of a species into  
22 an ecosystem as a result of human activity.

23 (8) INVASIVE SPECIES.—The term “invasive  
24 species” means an alien species the introduction of

1       which causes or is likely to cause economic or envi-  
2       ronmental harm or harm to human health.

3               (9) NATIVE SPECIES.—The term “native spe-  
4       cies” means, with respect to a particular ecosystem,  
5       a species that, other than as a result of an introduc-  
6       tion, historically occurred or currently occurs in the  
7       ecosystem.

8               (10) SPECIES.—The term “species” means a  
9       group of organisms all of which—

10               (A) have a high degree of physical and ge-  
11       netic similarity;

12               (B) generally interbreed only among them-  
13       selves; and

14               (C) show persistent differences from mem-  
15       bers of allied groups of organisms.

16               (11) STAKEHOLDER.—The term “stakeholder”  
17       means an entity with an interest in invasive species,  
18       including—

19               (A) a State, tribal, or local government  
20       agency;

21               (B) an academic institution;

22               (C) the scientific community; and

23               (D) a nongovernmental entity, including an  
24       environmental, agricultural, or conservation or-

1           ganization, trade group, commercial interest, or  
2           private landowner.

3 **SEC. 402. INVASIVE SPECIES COUNCIL.**

4           (a) ESTABLISHMENT.—There is established an advi-  
5 sory council to be known as the “Invasive Species Coun-  
6 cil”.

7           (b) MEMBERSHIP.—

8           (1) IN GENERAL.—The Council shall be com-  
9 posed of—

10                   (A) the Secretary of State;

11                   (B) the Secretary of the Treasury;

12                   (C) the Secretary of Defense;

13                   (D) the Secretary of the Interior, who shall  
14 be a cochairperson of the Council;

15                   (E) the Secretary of Agriculture, who shall  
16 be a cochairperson of the Council;

17                   (F) the Secretary of Commerce, who shall  
18 be a cochairperson of the Council;

19                   (G) the Secretary of Transportation;

20                   (H) the Administrator of the Environ-  
21 mental Protection Agency; and

22                   (I) a representative of State government  
23 appointed by the National Governors’ Associa-  
24 tion.



1           (2) OTHER FEDERAL AGENCY REPRESENTA-  
2 TIVES.—The Council may—

3           (A) invite other representatives of Federal  
4 agencies to serve as members of the Council, in-  
5 cluding representatives from subcabinet bureaus  
6 or offices with significant responsibilities con-  
7 cerning invasive species; and

8           (B) prescribe special procedures for the  
9 participation by those other representatives on  
10 the Council.

11 (c) DUTIES.—The Invasive Species Council shall—

12           (1) provide national leadership regarding  
13 invasive species;

14           (2) oversee the implementation of this title and  
15 make recommendations designed to ensure that the  
16 activities of Federal agencies concerning invasive  
17 species are coordinated, complementary, cost-effi-  
18 cient, and effective, relying to the maximum extent  
19 practicable on organizations addressing invasive spe-  
20 cies, such as—

21           (A) the Aquatic Nuisance Species Task  
22 Force established by section 1201 of the Non-  
23 indigenous Aquatic Nuisance Prevention and  
24 Control Act of 1990 (16 U.S.C. 4721);

1 (B) the Federal Interagency Committee for  
2 the Management of Noxious and Exotic Weeds;  
3 and

4 (C) the Committee on Environment and  
5 Natural Resources of the Office of Science and  
6 Technology Policy;

7 (3) encourage planning and action at local, trib-  
8 al, State, regional, and ecosystem-based levels to  
9 achieve the goals and objectives of the Action Plan,  
10 in cooperation with stakeholders and organizations  
11 addressing invasive species;

12 (4) develop recommendations for international  
13 cooperation in addressing invasive species;

14 (5) develop, in consultation with the Council on  
15 Environmental Quality, guidance to Federal agencies  
16 under the National Environmental Policy Act of  
17 1969 (42 U.S.C. 4321 et seq.) concerning prevention  
18 and control of invasive species, including the pro-  
19 curement, use, and maintenance of native species in  
20 a manner designed to affect invasive species;

21 (6) facilitate development of a coordinated net-  
22 work among Federal agencies to document, evaluate,  
23 and monitor impacts from invasive species on the  
24 economy, the environment, and human health;

1           (7) facilitate establishment of a coordinated,  
2 up-to-date information-sharing system that—

3           (A) uses, to the maximum extent prac-  
4 ticable, the Internet; and

5           (B) facilitates access to and exchange of  
6 information concerning invasive species, such  
7 as—

8           (i) information on the distribution and  
9 abundance of invasive species;

10           (ii) life histories of invasive species  
11 and invasive characteristics;

12           (iii) economic, environmental, and  
13 human health impacts from invasive spe-  
14 cies;

15           (iv) techniques for management of  
16 invasive species; and

17           (v) laws and programs for manage-  
18 ment, research, and public education con-  
19 cerning invasive species; and

20           (8) develop and submit to Congress the Action  
21 Plan.

22           (d) EXECUTIVE DIRECTOR; STAFF.—With the con-  
23 currence of the other cochairpersons, the Secretary of the  
24 Interior shall—

1           (1) appoint an Executive Director of the Coun-  
2       cil; and

3           (2) provide staff and administrative support for  
4       the Council.

5   **SEC. 403. ADVISORY COMMITTEE.**

6       (a) ESTABLISHMENT.—The Secretary of the Interior  
7   shall—

8           (1) establish an advisory committee to provide  
9       information and advice for consideration by the  
10      Council; and

11          (2) after consultation with other members of  
12      the Council, appoint members of the advisory com-  
13      mittee to represent stakeholders.

14      (b) DUTIES.—The duties of the advisory committee  
15   shall include making recommendations for plans and ac-  
16   tions at local, tribal, State, regional, and ecosystem-based  
17   levels to achieve the goals and objectives of the Action  
18   Plan.

19      (c) COOPERATION.—The advisory committee shall act  
20   in cooperation with stakeholders and organizations ad-  
21   dressing the problem of invasive species.

22      (d) ADMINISTRATIVE AND FINANCIAL SUPPORT.—  
23   The Secretary of the Interior shall provide administrative  
24   and financial support for the advisory committee.

1 **SEC. 404. INVASIVE SPECIES ACTION PLAN.**

2 (a) IN GENERAL.—Not later than 270 days after the  
3 date of enactment of this Act, the Council shall develop  
4 and submit to Congress a National Invasive Species Ac-  
5 tion Plan, which shall—

6 (1) detail and recommend performance-oriented  
7 goals and objectives and specific measures of success  
8 for Federal agency efforts concerning invasive spe-  
9 cies;

10 (2) detail and recommend measures to be taken  
11 by the Council to carry out its duties under section  
12 402; and

13 (3) identify the personnel, other resources, and  
14 additional levels of coordination needed to achieve  
15 the goals and objectives of the Action Plan.

16 (b) PUBLIC PARTICIPATION AND COORDINATION.—  
17 The Action Plan shall be—

18 (1) developed through a public process and in  
19 consultation with Federal agencies and stakeholders;  
20 and

21 (2) coordinated with any State plans concerning  
22 invasive species.

23 (c) SPECIAL REQUIREMENTS FOR FIRST ACTION  
24 PLAN.—

25 (1) IN GENERAL.—The first Action Plan sub-  
26 mitted under subsection (a) shall—

1 (A) include a review of existing and pro-  
 2 spective approaches and authorities for pre-  
 3 venting the introduction and spread of invasive  
 4 species, including approaches for—

5 (i) identifying pathways for the intro-  
 6 duction of invasive species; and

7 (ii) minimizing the risk of introduc-  
 8 tions by means of those pathways; and

9 (B) identify research needs and rec-  
 10 ommend measures to minimize the risk that in-  
 11 troductions will occur.

12 (2) RECOMMENDED PROCESSES.—The meas-  
 13 ures recommended under paragraph (1)(B) shall  
 14 provide for—

15 (A) a science-based process to evaluate  
 16 risks associated with the introduction and  
 17 spread of invasive species; and

18 (B) a coordinated and systematic risk-  
 19 based process to identify, monitor, and interdict  
 20 pathways that may be involved in the introduc-  
 21 tion of invasive species.

22 (3) RECOMMENDATIONS FOR LEGISLATION.—If  
 23 any measure recommended under paragraph (1)(B)  
 24 is not authorized by law in effect as of the date of  
 25 the recommendation, the Council shall develop and

1 submit to Congress legislative proposals for nec-  
 2 essary changes in law.

3 (d) UPDATES AND EVALUATIONS OF ACTION  
 4 PLAN.—The Council shall—

5 (1) develop and submit to Congress biennial up-  
 6 dates of the Action Plan; and

7 (2) concurrently evaluate and report on success  
 8 in achieving the goals and objectives specified in the  
 9 Action Plan.

10 (e) RESPONSE BY FEDERAL AGENCIES.—Not later  
 11 than 18 months after the date of submission to Congress  
 12 of the Action Plan, each Federal agency that is required  
 13 to implement a measure recommended under subsection  
 14 (a)(1) or (c)(1)(B) shall—

15 (1) take the recommended action; or

16 (2) provide to the Council an explanation of  
 17 why the action is not feasible.

## 18 **TITLE V—AUTHORIZATION OF** 19 **APPROPRIATIONS**

### 20 **SEC. 501. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) IN GENERAL.—There are authorized to be appro-  
 22 priated such sums as are necessary to carry out this Act.

23 (b) COMPENSATION.—Except as provided in section  
 24 106 and as specifically authorized by law, no part of the  
 25 amounts appropriated under this section shall be used to

1 provide compensation for property injured or destroyed by  
 2 or at the direction of the Secretary.

3 **SEC. 502. TRANSFER AUTHORITY.**

4 (a) **AUTHORITY TO TRANSFER CERTAIN FUNDS.**—  
 5 In connection with an emergency in which a plant pest  
 6 or noxious weed threatens a segment of the agricultural  
 7 production of the United States, the Secretary may trans-  
 8 fer from other appropriations or funds available to the  
 9 agencies or corporations of the Department of Agriculture  
 10 such amounts as the Secretary considers necessary to be  
 11 available in the emergency for the arrest, control, eradi-  
 12 cation, and prevention of the dissemination of the plant  
 13 pest or noxious weed and for related expenses.

14 (b) **AVAILABILITY.**—Any funds transferred under  
 15 this section shall remain available for such purposes until  
 16 expended.

17 (c) **CONFORMING AMENDMENTS.**—The first section  
 18 of Public Law 97–46 (7 U.S.C. 147b) is amended—

19 (1) by striking “plant pests or”; and

20 (2) by striking “section 102 of the Act of Sep-  
 21 tember 21, 1944, as amended (7 U.S.C. 147a),  
 22 and”.

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