

103D CONGRESS  
1ST SESSION

# S. 824

To amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 27 (legislative day, APRIL 19), 1993

Mr. BOND (for himself, Mr. McCONNELL, Mr. HEFLIN, Mr. CONRAD, Mr. COATS, Mr. DANFORTH, Mr. DOLE, Mr. DASCHLE, Mr. NICKLES, Mr. BOREN, Mr. DORGAN, Mr. PRESSLER, Mr. COVERDELL, Mr. KEMPTHORNE, Mr. HELMS, Mr. GRASSLEY, Mr. THURMOND, Mr. COCHRAN, Mrs. KASSEBAUM, Mr. CRAIG, Mr. HATCH, Mr. LUGAR, Mr. PACKWOOD, and Mr. SHELBY) 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 amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Wetlands Simplifica-  
3 tion Act”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) technical determinations with respect to  
7 wetland or converted wetland on agricultural lands  
8 (including the identification of wetland and the de-  
9 velopment of wetland restoration and mitigation  
10 plans) are currently made by—

11 (A) the Soil Conservation Service, in con-  
12 sultation with the Fish and Wildlife Service, to  
13 carry out subtitle C of title XII of the Food Se-  
14 curity Act of 1985 (16 U.S.C. 3821 et seq.);  
15 and

16 (B) the Secretary of the Army, acting  
17 through the Chief of Engineers, to carry out  
18 section 404 of the Federal Water Pollution  
19 Control Act (33 U.S.C. 1344);

20 (2) the system of separate determinations made  
21 under such Acts has led to unnecessarily cum-  
22 bersome and slow decisionmaking and to a lack of  
23 consistency and unpredictable results in determina-  
24 tions;

25 (3) the lack of consistency places substantial  
26 burdens on private property owners that could be al-

1       leviated if responsibility for making the determina-  
2       tions was carried out by one agency; and

3               (4) the Soil Conservation Service has a long  
4       history of working with agricultural producers to  
5       protect soil and water resources, has considerable  
6       soils expertise, and has field personnel in almost  
7       every county of the United States.

8       (b) PURPOSES.—It is the purpose of this Act to—

9               (1) provide that a single Federal agency shall  
10      be responsible for making technical determinations  
11      on agricultural lands with respect to wetland or con-  
12      verted wetland (including the identification of wet-  
13      land and the development of wetland restoration and  
14      mitigation plans) in order to reduce confusion  
15      among agricultural producers; and

16              (2) provide that the Soil Conservation Service,  
17      in consultation with the Fish and Wildlife Service,  
18      shall be the Federal agency responsible for all such  
19      technical determinations concerning wetland and  
20      converted wetland on agricultural lands.

21   **SEC. 3. COMPLIANCE WITH WETLAND CONSERVATION RE-**  
22                                   **QUIREMENTS.**

23       Section 1222(j) of the Food Security Act of 1985 (16  
24   U.S.C. 3822(j)) is amended by adding at the end the fol-  
25   lowing new paragraph:

1 “(4) EFFECT OF DETERMINATIONS.—

2 “(A) IN GENERAL.—Notwithstanding any  
3 other provision of law, a technical determina-  
4 tion with respect to wetland or converted wet-  
5 land on agricultural lands (including the identi-  
6 fication of wetland under paragraph (1) and the  
7 development of a wetland restoration or mitiga-  
8 tion plan developed under paragraph (1)) shall  
9 be used in the administration of section 404 of  
10 the Federal Water Pollution Control Act (33  
11 U.S.C. 1344).

12 “(B) CONSISTENCY.—Any area of agricul-  
13 tural land or any activities related to the land  
14 determined to be exempt from the requirements  
15 of this subtitle shall also be exempt from the re-  
16 quirements of section 404 of the Federal Water  
17 Pollution Control Act (33 U.S.C. 1344) for  
18 such period of time as those lands are used as  
19 agricultural lands.

20 “(C) DEFINITION.—As used in this para-  
21 graph, the term ‘agricultural lands’ means crop-  
22 land, pastureland, native pasture, rangeland,  
23 orchards, vineyards, nonindustrial forest land,  
24 and any other land used to produce or support  
25 the production of an annual or perennial crop

- 1 of a commodity, aquaculture product, nursery
- 2 product, or livestock.”.

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