

106TH CONGRESS
1ST SESSION

H. R. 1504

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1999

Mr. CANADY of Florida (for himself, Mr. EWING, Mr. EHRLICH, Mr. ETHERIDGE, Mr. CONDIT, Mr. FOLEY, Mr. BLUMENAUER, Mrs. THURMAN, Mr. BOYD, and Mr. HAYES) 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

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”.

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

- Sec. 1. Short title and 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, articles, noxious weeds, and means of conveyance.
- Sec. 103. Notification and holding requirements upon arrival.
- Sec. 104. General remedial measures for new plant pests and noxious weeds.
- Sec. 105. Declaration of extraordinary emergency and resulting authorities.
- 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, seizures, 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. Regulations and orders.
- Sec. 305. Protection for mail handlers.
- Sec. 306. Preemption.
- Sec. 307. Severability.
- Sec. 308. Repeal of superseded laws.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

- Sec. 401. Authorization of appropriations.
- Sec. 402. Transfer authority.

3 **SEC. 2. FINDINGS.**

4 The Congress finds that—

5 (1) the detection, control, eradication, suppres-
 6 sion, prevention, or retardation of the spread of
 7 plant pests or noxious weeds is necessary for the

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

3 (2) biological control is often a desirable, low-
4 risk means of ridding crops and other plants of
5 plant pests and noxious weeds, and its use should be
6 facilitated by the Department of Agriculture, other
7 Federal agencies, and States whenever feasible;

8 (3) the smooth movement of enterable plants,
9 plant products, biological control organisms, or other
10 articles into, out of, or within the United States is
11 vital to the Nation's economy and should be facili-
12 tated to the extent possible;

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

16 (5) the unregulated movement of plant pests,
17 noxious weeds, plants, certain biological control or-
18 ganisms, plant products, and articles capable of har-
19 boring plant pests or noxious weeds could present an
20 unacceptable risk of introducing or spreading plant
21 pests or noxious weeds;

22 (6) the existence on any premises in the United
23 States of a plant pest or noxious weed new to or not
24 known to be widely prevalent in or distributed within
25 and throughout the United States could constitute a

1 threat to crops and other plants or plant products
2 of the United States and burden interstate com-
3 merce or foreign commerce; and

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

8 **SEC. 3. DEFINITIONS.**

9 For the purposes of this Act:

10 (1) ARTICLE.—The term “article” means any
11 material or tangible object that could harbor plant
12 pests or noxious weeds.

13 (2) BIOLOGICAL CONTROL ORGANISM.—The
14 term “biological control organism” means any
15 enemy, antagonist, or competitor used to control a
16 plant pest or noxious weed.

17 (3) ENTER AND ENTRY.—The terms “enter”
18 and “entry” mean to move into, or the act of move-
19 ment into, the commerce of the United States.

20 (4) EXPORT AND EXPORTATION.—The terms
21 “export” and “exportation” mean to move from, or
22 the act of movement from, the United States to any
23 place outside of the United States.

24 (5) IMPORT AND IMPORTATION.—The terms
25 “import” and “importation” mean to move into, or

1 the act of movement into, the territorial limits of
2 the United States.

3 (6) INTERSTATE.—The term “interstate”
4 means—

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

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

11 (7) INTERSTATE COMMERCE.—The term “inter-
12 state commerce” means trade, traffic, or other
13 commerce—

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

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

22 (8) MEANS OF CONVEYANCE.—The term
23 “means of conveyance” means any personal property
24 used for or intended for use for the movement of
25 any other personal property.

1 (9) MOVE AND RELATED TERMS.—The terms
2 “move”, “moving”, and “movement” mean—

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

5 (B) to aid, abet, cause, or induce the car-
6 rying, entering, importing, mailing, shipping, or
7 transporting;

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

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

12 (E) to release into the environment; or

13 (F) to allow any of the activities described
14 in a preceding clause.

15 (10) NOXIOUS WEED.—The term “noxious
16 weed” means any plant or plant product that can di-
17 rectly or indirectly injure or cause damage to crops
18 (including nursery stock or plant products), live-
19 stock, poultry, or other interests of agriculture, irri-
20 gation, navigation, the natural resources of the
21 United States, the public health, or the environment.

22 (11) PERMIT.—The term “permit” means a
23 written or oral authorization, including by electronic
24 methods, by the Secretary to move plants, plant
25 products, biological control organisms, plant pests,

1 noxious weeds, or articles under conditions pre-
2 scribed by the Secretary.

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

6 (13) PLANT.—The term “plant” means any
7 plant (including any plant part) for or capable of
8 propagation, including trees, tissue cultures, plantlet
9 cultures, pollen, shrubs, vines, cuttings, grafts, sci-
10 ons, buds, bulbs, roots, and seeds.

11 (14) PLANT PEST.—The term “plant pest”
12 means any living stage of any of the following that
13 can directly or indirectly injure, cause damage to, or
14 cause disease in any plant or plant product:

15 (A) A protozoan.

16 (B) A nonhuman animal.

17 (C) A parasitic plant.

18 (D) A bacteria.

19 (E) A fungus.

20 (F) A virus or viroid.

21 (G) An infectious agent or other pathogen.

22 (H) Any article similar to or allied with
23 any of the articles specified in the preceding
24 subparagraphs.

1 (15) PLANT PRODUCT.—The term “plant prod-
2 uct” means—

3 (A) any flower, fruit, vegetable, root, bulb,
4 seed, or other plant part that is not included in
5 the definition of plant; or

6 (B) any manufactured or processed plant
7 or plant part.

8 (16) SECRETARY.—The term “Secretary”
9 means the Secretary of Agriculture.

10 (17) STATE.—The term “State” means any of
11 the several States of the United States, the Com-
12 monwealth of the Northern Mariana Islands, the
13 Commonwealth of Puerto Rico, the District of Co-
14 lumbia, Guam, the Virgin Islands of the United
15 States, or any other territory or possession of the
16 United States.

17 (18) THIS ACT.—Except when used in this sec-
18 tion, the term “this Act” includes any regulation or
19 order issued by the Secretary under the authority of
20 this Act.

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

1 **TITLE I—PLANT PROTECTION**

2 **SEC. 101. REGULATION OF MOVEMENT OF PLANT PESTS.**

3 (a) PROHIBITION OF UNAUTHORIZED MOVEMENT OF
4 PLANT PESTS.—Except as provided in subsection (b), no
5 person shall import, enter, export, or move in interstate
6 commerce any plant pest, unless the importation, entry,
7 exportation, or movement is authorized under general or
8 specific permit and is in accordance with such regulations
9 as the Secretary may issue to prevent the introduction of
10 plant pests into the United States or the dissemination
11 of plant pests within the United States.

12 (b) AUTHORIZATION OF MOVEMENT OF PLANT
13 PESTS BY REGULATION.—

14 (1) EXCEPTION TO PERMIT REQUIREMENT.—

15 The Secretary may issue regulations to allow the im-
16 portation, entry, exportation, or movement in inter-
17 state commerce of specified plant pests without fur-
18 ther restriction if the Secretary finds that a permit
19 under subsection (a) is not necessary.

20 (2) PETITION TO ADD OR REMOVE PLANT

21 PESTS FROM REGULATION.—Any person may peti-
22 tion the Secretary to add a plant pest to, or remove
23 a plant pest from, the regulations issued by the Sec-
24 retary under paragraph (1).

1 (3) RESPONSE TO PETITION BY THE SEC-
2 RETARY.—In the case of a petition submitted under
3 paragraph (2), the Secretary shall act on the peti-
4 tion within a reasonable time and notify the peti-
5 tioner of the final action the Secretary takes on the
6 petition. The Secretary’s determination on the peti-
7 tion shall be based on sound science.

8 (c) PROHIBITION OF UNAUTHORIZED MAILING OF
9 PLANT PESTS.—

10 (1) IN GENERAL.—Any letter, parcel, box, or
11 other package containing any plant pest, whether
12 sealed as letter-rate postal matter or not, is non-
13 mailable and shall not knowingly be conveyed in the
14 mail or delivered from any post office or by any mail
15 carrier, unless the letter, parcel, box, or other pack-
16 age is mailed in compliance with such regulations as
17 the Secretary may issue to prevent the dissemination
18 of plant pests into the United States or interstate.

19 (2) APPLICATION OF POSTAL LAWS AND REGU-
20 LATIONS.—Nothing in this subsection authorizes any
21 person to open any mailed letter or other mailed
22 sealed matter except in accordance with the postal
23 laws and regulations.

24 (d) REGULATIONS.—Regulations issued by the Sec-
25 retary to implement subsections (a), (b), and (c) may in-

1 clude provisions requiring that any plant pest imported,
2 entered, to be exported, moved in interstate commerce,
3 mailed, or delivered from any post office—

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

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

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

19 (4) be subject to remedial measures the Sec-
20 retary determines necessary to prevent the spread of
21 plant pests.

1 **SEC. 102. REGULATION OF MOVEMENT OF PLANTS, PLANT**
2 **PRODUCTS, BIOLOGICAL CONTROL ORGA-**
3 **NISMS, ARTICLES, NOXIOUS WEEDS, AND**
4 **MEANS OF CONVEYANCE.**

5 (a) IN GENERAL.—The Secretary may prohibit or re-
6 strict the importation, entry, exportation, or movement in
7 interstate commerce of any plant, plant product, biological
8 control organism, noxious weed, article, or any means of
9 conveyance, if the Secretary determines that the prohibi-
10 tion or restriction is necessary to prevent the introduction
11 into the United States or the dissemination of a plant pest
12 or noxious weed within the United States.

13 (b) REGULATIONS.—The Secretary may issue regula-
14 tions to implement subsection (a), including regulations
15 requiring that any plant, plant product, biological control
16 organism, noxious weed, article, or any means of convey-
17 ance imported, entered, to be exported, or moved in inter-
18 state commerce—

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

22 (2) be accompanied by a certificate of inspec-
23 tion issued (in a manner and form required by the
24 Secretary) by appropriate officials of the country or
25 State from which the plant, plant product, biological

1 control organism, noxious weed, article, or means of
2 conveyance is to be moved;

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

6 (4) with respect to plants or biological control
7 organisms, be grown or handled under post-entry
8 quarantine conditions by or under the supervision of
9 the Secretary for the purposes of determining wheth-
10 er the plant or biological control organism may be
11 infested with plant pests or may be a plant pest or
12 noxious weed.

13 (c) NOXIOUS WEEDS.—

14 (1) REGULATIONS.—In the case of noxious
15 weeds, the Secretary may publish, by regulation, a
16 list of noxious weeds that are prohibited or re-
17 stricted from entering the United States or that are
18 subject to restrictions on interstate movement within
19 the United States.

20 (2) PETITION TO ADD OR REMOVE PLANTS
21 FROM REGULATION.—Any person may petition the
22 Secretary to add a plant species to, or remove a
23 plant species from, the regulations issued by the
24 Secretary under this subsection.

1 (3) DUTIES OF THE SECRETARY.—In the case
2 of a petition submitted under paragraph (2), the
3 Secretary shall act on the petition within a reason-
4 able time and notify the petitioner of the final action
5 the Secretary takes on the petition. The Secretary's
6 determination on the petition shall be based on
7 sound science.

8 (d) BIOLOGICAL CONTROL ORGANISMS.—

9 (1) REGULATIONS.—In the case of biological
10 control organisms, the Secretary may publish, by
11 regulation, a list of organisms whose movement in
12 interstate commerce is not prohibited or restricted.
13 Any listing may take into account distinctions be-
14 tween organisms such as indigenous, non-indigenous,
15 newly introduced, or commercially raised.

16 (2) PETITION TO ADD OR REMOVE BIOLOGICAL
17 CONTROL ORGANISMS FROM THE REGULATIONS.—
18 Any person may petition the Secretary to add a bio-
19 logical control organism to, or remove a biological
20 control organism from, the regulations issued by the
21 Secretary under this subsection.

22 (3) DUTIES OF THE SECRETARY.—In the case
23 of a petition submitted under paragraph (2), the
24 Secretary shall act on the petition within a reason-
25 able time and notify the petitioner of the final action

1 the Secretary takes on the petition. The Secretary's
2 determination on the petition shall be based on
3 sound science.

4 **SEC. 103. NOTIFICATION AND HOLDING REQUIREMENTS**
5 **UPON ARRIVAL.**

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

7 (1) NOTIFICATION.—The Secretary of the
8 Treasury shall promptly notify the Secretary of Ag-
9 riculture of the arrival of any plant, plant product,
10 biological control organism, plant pest, or noxious
11 weed at a port of entry.

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

18 (A) inspected and authorized for entry into
19 or transit movement through the United States;
20 or

21 (B) otherwise released by the Secretary of
22 Agriculture.

23 (3) EXCEPTIONS.—Paragraphs (1) and (2)
24 shall not apply to any plant, plant product, biological
25 control organism, plant pest, or noxious weed that is

1 imported from a country or region of a country des-
2 ignated by the Secretary of Agriculture, pursuant to
3 regulations, as exempt from the requirements of
4 such paragraphs.

5 (b) DUTY OF RESPONSIBLE PARTIES.—

6 (1) NOTIFICATION.—The person responsible for
7 any plant, plant product, biological control organism,
8 plant pest, noxious weed, article, or means of con-
9 veyance required to have a permit under section 101
10 or 102 shall provide the notification described in
11 paragraph (3) as soon as possible after the arrival
12 of the plant, plant product, biological control orga-
13 nism, plant pest, noxious weed, article, or means of
14 conveyance at a port of entry and before the plant,
15 plant product, biological control organism, plant
16 pest, noxious weed, article, or means of conveyance
17 is moved from the port of entry.

18 (2) SUBMISSION.—The notification shall be pro-
19 vided to the Secretary, or at the Secretary's direc-
20 tion, the proper official of the State to which the
21 plant, plant product, biological control organism,
22 plant pest, noxious weed, article, or means of con-
23 veyance is destined, or both, as the Secretary may
24 prescribe.

1 (3) ELEMENTS OF NOTIFICATION.—The notifi-
2 cation shall consist of the following:

3 (A) The name and address of the con-
4 signee.

5 (B) The nature and quantity of the plant,
6 plant product, biological control organism, plant
7 pest, noxious weed, article, or means of convey-
8 ance proposed to be moved.

9 (C) The country and locality where the
10 plant, plant product, biological control orga-
11 nism, plant pest, noxious weed, article, or
12 means of conveyance was grown, produced, or
13 located.

14 (c) PROHIBITION ON MOVEMENT OF ITEMS WITH-
15 OUT AUTHORIZATION.—No person shall move from a port
16 of entry or interstate any imported plant, plant product,
17 biological control organism, plant pest, noxious weed, arti-
18 cle, or means of conveyance unless the imported plant,
19 plant product, biological control organism, plant pest, nox-
20 ious weed, article, or means of conveyance—

21 (1) is inspected and authorized for entry into or
22 transit movement through the United States; or

23 (2) is otherwise released by the Secretary.

1 **SEC. 104. GENERAL REMEDIAL MEASURES FOR NEW PLANT**
2 **PESTS AND NOXIOUS WEEDS.**

3 (a) **AUTHORITY TO HOLD, TREAT, OR DESTROY**
4 **ITEMS.**—If the Secretary considers it necessary in order
5 to prevent the dissemination of a plant pest or noxious
6 weed that is new to or not known to be widely prevalent
7 or distributed within and throughout the United States,
8 the Secretary may hold, seize, quarantine, treat, apply
9 other remedial measures to, destroy, or otherwise dispose
10 of any plant, plant pest, noxious weed, biological control
11 organism, plant product, article, or means of conveyance
12 that—

13 (1) is moving into or through the United States
14 or interstate, or has moved into or through the
15 United States or interstate, and—

16 (A) the Secretary has reason to believe is
17 a plant pest or noxious weed or is infested with
18 a plant pest or noxious weed at the time of the
19 movement; or

20 (B) is or has been otherwise in violation of
21 this Act;

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

24 (3) is the progeny of any plant, biological con-
25 trol organism, plant product, plant pest, or noxious
26 weed that is moving into or through the United

1 States or interstate, or has moved into the United
2 States or interstate, in violation of this Act.

3 (b) AUTHORITY TO ORDER AN OWNER TO TREAT OR
4 DESTROY.—

5 (1) IN GENERAL.—The Secretary may order the
6 owner of any plant, biological control organism,
7 plant product, plant pest, noxious weed, article, or
8 means of conveyance subject to action under sub-
9 section (a), or the owner's agent, to treat, apply
10 other remedial measures to, destroy, or otherwise
11 dispose of the plant, biological control organism,
12 plant product, plant pest, noxious weed, article, or
13 means of conveyance, without cost to the Federal
14 Government and in the manner the Secretary con-
15 sideres appropriate.

16 (2) FAILURE TO COMPLY.—If the owner or
17 agent of the owner fails to comply with the Sec-
18 retary's order under this subsection, the Secretary
19 may take an action authorized by subsection (a) and
20 recover from the owner or agent of the owner the
21 costs of any care, handling, application of remedial
22 measures or disposal incurred by the Secretary in
23 connection with actions taken under subsection (a).

24 (c) CLASSIFICATION SYSTEM.—

1 (1) DEVELOPMENT REQUIRED.—To facilitate
2 control of noxious weeds, the Secretary may develop
3 a classification system to describe the status and ac-
4 tion levels for noxious weeds. The classification sys-
5 tem may include the current geographic distribution,
6 relative threat, and actions initiated to prevent intro-
7 duction or distribution.

8 (2) MANAGEMENT PLANS.—In conjunction with
9 the classification system, the Secretary may develop
10 integrated management plans for noxious weeds for
11 the geographic region or ecological range where the
12 noxious weed is found in the United States.

13 (d) APPLICATION OF LEAST DRASTIC ACTION.—No
14 plant, biological control organism, plant product, plant
15 pest, noxious weed, article, or means of conveyance shall
16 be destroyed, exported, or returned to the shipping point
17 of origin, or ordered to be destroyed, exported, or returned
18 to the shipping point of origin under this section unless,
19 in the opinion of the Secretary, there is no less drastic
20 action that is feasible and that would be adequate to pre-
21 vent the dissemination of any plant pest or noxious weed
22 new to or not known to be widely prevalent or distributed
23 within and throughout the United States.

1 **SEC. 105. DECLARATION OF EXTRAORDINARY EMERGENCY**
2 **AND RESULTING AUTHORITIES.**

3 (a) **AUTHORITY TO DECLARE.**—If the Secretary de-
4 termines that an extraordinary emergency exists because
5 of the presence of a plant pest or noxious weed that is
6 new to or not known to be widely prevalent in or distrib-
7 uted within and throughout the United States and that
8 the presence of the plant pest or noxious weed threatens
9 plants or plant products of the United States, the Sec-
10 retary may—

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

17 (2) quarantine, treat, or apply other remedial
18 measures to any premises, including any plants, bio-
19 logical control organisms, plant products, articles, or
20 means of conveyance on the premises, that the Sec-
21 retary has reason to believe is infested with the
22 plant pest or noxious weed;

23 (3) quarantine any State or portion of a State
24 in which the Secretary finds the plant pest or nox-
25 ious weed or any plant, biological control organism,
26 plant product, article, or means of conveyance that

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

3 (4) prohibit or restrict the movement within a
4 State of any plant, biological control organism, plant
5 product, article, or means of conveyance when the
6 Secretary determines that the prohibition or restric-
7 tion is necessary to prevent the dissemination of the
8 plant pest or noxious weed or to eradicate the plant
9 pest or noxious weed.

10 (b) REQUIRED FINDING OF EMERGENCY.—The Sec-
11 retary may take action under this section only upon find-
12 ing, after review and consultation with the Governor or
13 other appropriate official of the State affected, that the
14 measures being taken by the State are inadequate to
15 eradicate the plant pest or noxious weed.

16 (c) NOTIFICATION PROCEDURES.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), before any action is taken in any State
19 under this section, the Secretary shall notify the
20 Governor or other appropriate official of the State
21 affected, issue a public announcement, and file for
22 publication in the Federal Register a statement of
23 the Secretary's findings, the action the Secretary in-
24 tends to take, the reasons for the intended action,

1 and, where practicable, an estimate of the antici-
2 pated duration of the extraordinary emergency.

3 (2) TIME SENSITIVE ACTIONS.—If it is not pos-
4 sible to file for publication in the Federal Register
5 prior to taking action, the filing shall be made with-
6 in a reasonable time, not to exceed 10 business days,
7 after commencement of the action.

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

19 (e) PAYMENT OF COMPENSATION.—The Secretary
20 may pay compensation to any person for economic losses
21 incurred by them as a result of action taken by the Sec-
22 retary under this section. The determination by the Sec-
23 retary of the amount of any compensation to be paid
24 under this subsection shall be final and shall not be sub-
25 ject to judicial review.

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

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

17 (b) TIME FOR ACTION; LOCATION.—An action under
18 this section shall be brought not later than one year after
19 the destruction or disposal of the plant, plant biological
20 control organism, plant product, plant pest, noxious weed,
21 article, or means of conveyance involved. The action may
22 be brought in any United States District Court where the
23 owner is found, resides, transacts business, is licensed to
24 do business, or is incorporated.

25 (c) PAYMENT OF JUDGMENTS.—Any judgment ren-
26 dered in favor of the owner shall be paid out of the money

1 in the Treasury appropriated for plant pest control activi-
2 ties of the Department of Agriculture.

3 **SEC. 107. CONTROL OF GRASSHOPPERS AND MORMON**
4 **CRICKETS.**

5 (a) IN GENERAL.—Subject to the availability of
6 funds pursuant to this section, the Secretary of Agri-
7 culture shall carry out a program to control grasshoppers
8 and Mormon Crickets on all Federal lands to protect
9 rangeland.

10 (b) TRANSFER AUTHORITY.—

11 (1) IN GENERAL.—Subject to paragraph (3),
12 upon the request of the Secretary of Agriculture, the
13 Secretary of the Interior shall transfer to the Sec-
14 retary of Agriculture, from any no-year appropria-
15 tions, funds for the prevention, suppression, and
16 control of actual or potential grasshopper and Mor-
17 mon Cricket outbreaks on Federal lands under the
18 jurisdiction of the Secretary of the Interior. The
19 transferred funds shall be available only for the pay-
20 ment of obligations incurred on such Federal lands.

21 (2) TRANSFER REQUESTS.—Requests for the
22 transfer of funds pursuant to this subsection shall
23 be made as promptly as possible by the Secretary of
24 Agriculture.

1 (3) LIMITATION.—Funds transferred pursuant
 2 to this subsection may not be used by the Secretary
 3 of Agriculture until funds specifically appropriated
 4 to the Secretary of Agriculture for grasshopper con-
 5 trol have been exhausted.

6 (4) REPLENISHMENT OF TRANSFERRED
 7 FUNDS.—Funds transferred pursuant to this section
 8 shall be replenished by supplemental or regular ap-
 9 propriations, which shall be requested as promptly
 10 as possible.

11 (c) TREATMENT FOR GRASSHOPPERS AND MORMON
 12 CRICKETS.—

13 (1) IN GENERAL.—Subject to the availability of
 14 funds pursuant to this section, on request of the ad-
 15 ministering agency or the agriculture department of
 16 an affected State, the Secretary of Agriculture, to
 17 protect rangeland, shall immediately treat Federal,
 18 State, or private lands that are infested with grass-
 19 hoppers or Mormon Crickets at levels of economic
 20 infestation, unless the Secretary determines that de-
 21 laying treatment will not cause greater economic
 22 damage to adjacent owners of rangeland.

23 (2) OTHER PROGRAMS.—In carrying out this
 24 section, the Secretary of Agriculture shall work in
 25 conjunction with other Federal, State, and private

1 prevention, control, or suppression efforts to protect
2 rangeland.

3 (d) FEDERAL COST SHARE OF TREATMENT.—

4 (1) CONTROL ON FEDERAL LANDS.—Out of
5 funds made available or transferred under this sec-
6 tion, the Secretary of Agriculture shall pay 100 per-
7 cent of the cost of grasshopper or Mormon Cricket
8 control on Federal lands to protect rangeland.

9 (2) CONTROL ON STATE LANDS.—Out of funds
10 made available under this section, the Secretary of
11 Agriculture shall pay 50 percent of the cost of grass-
12 hopper or Mormon Cricket control on State lands.

13 (3) CONTROL ON PRIVATE LANDS.—Out of
14 funds made available under this section, the Sec-
15 retary of Agriculture shall pay 33.3 percent of the
16 cost of grasshopper or Mormon Cricket control on
17 private lands.

18 (e) TRAINING.—From appropriated funds made
19 available or transferred by the Secretary of the Interior
20 to the Secretary of Agriculture for such purposes, the Sec-
21 retary of Agriculture shall provide adequate funding for
22 a program to train personnel to accomplish effectively the
23 objective of this section.

1 **SEC. 108. CERTIFICATION FOR EXPORTS.**

2 The Secretary may certify as to the freedom of
3 plants, plant products, or biological control organisms
4 from plant pests or noxious weeds or exposure of plants,
5 plant products, or biological control organisms to plant
6 pests or noxious weeds according to the phytosanitary or
7 other requirements of the countries to which the plants,
8 plant products, or biological control organisms may be ex-
9 ported.

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

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

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

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

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

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

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

3 (3) in intrastate commerce from or within any
4 State, portion of a State, or premises quarantined as
5 part of a extraordinary emergency declared under
6 section 105 upon probable cause to believe that the
7 person or means of conveyance is carrying any plant,
8 plant product, biological control organism, plant
9 pest, noxious weed, or article regulated under such
10 section or is moving subject to such section.

11 (c) INSPECTIONS WITH A WARRANT.—

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

16 (2) APPLICATION AND ISSUANCE OF A WAR-
17 RANT.—Upon proper oath or affirmation showing
18 probable cause to believe that there is on certain
19 premises any plant, plant product, biological control
20 organism, plant pest, noxious weed, article, facility,
21 or means of conveyance regulated under this Act, a
22 United States judge, a judge of a court of record in
23 the United States, or a United States magistrate
24 judge may, within the judge's or magistrate's juris-
25 diction, issue a warrant for the entry upon the

1 premises to conduct any investigation or make any
2 inspection or seizure under this Act. The warrant
3 may be applied for and executed by the Secretary or
4 any United States Marshal.

5 **SEC. 202. COLLECTION OF INFORMATION.**

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

10 **SEC. 203. SUBPOENA AUTHORITY.**

11 (a) **AUTHORITY TO ISSUE.**—The Secretary shall have
12 power to subpoena the attendance and testimony of any
13 witness, and the production of all documentary evidence
14 relating to the administration or enforcement of this Act
15 or any matter under investigation in connection with this
16 Act.

17 (b) **LOCATION OF PRODUCTION.**—The attendance of
18 any witness and production of documentary evidence may
19 be required from any place in the United States at any
20 designated place of hearing.

21 (c) **ENFORCEMENT OF SUBPOENA.**—In case of dis-
22 obedience to a subpoena by any person, the Secretary may
23 request the Attorney General to invoke the aid of any
24 court of the United States within the jurisdiction in which
25 the investigation is conducted, or where the person resides,

1 is found, transacts business, is licensed to do business, or
2 is incorporated, in requiring the attendance and testimony
3 of any witness and the production of documentary evi-
4 dence. In case of a refusal to obey a subpoena issued to
5 any person, a court may order the person to appear before
6 the Secretary and give evidence concerning the matter in
7 question or to produce documentary evidence. Any failure
8 to obey the court's order may be punished by the court
9 as a contempt of the court.

10 (d) COMPENSATION.—Witnesses summoned by the
11 Secretary shall be paid the same fees and mileage that
12 are paid to witnesses in courts of the United States, and
13 witnesses whose depositions are taken and the persons
14 taking the depositions shall be entitled to the same fees
15 that are paid for similar services in the courts of the
16 United States.

17 (e) PROCEDURES.—The Secretary shall publish pro-
18 cedures for the issuance of subpoenas under this section.
19 Such procedures shall include a requirement that sub-
20 poenas be reviewed for legal sufficiency and signed by the
21 Secretary. If the authority to sign a subpoena is delegated,
22 the agency receiving the delegation shall seek review for
23 legal sufficiency outside that agency.

24 (f) SCOPE OF SUBPOENA.—Subpoenas for witnesses
25 to attend court in any judicial district or to testify or

1 produce evidence at an administrative hearing in any judi-
2 cial district in any action or proceeding arising under this
3 Act may run to any other judicial district.

4 **SEC. 204. PENALTIES FOR VIOLATION.**

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

14 (b) CIVIL PENALTIES.—

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

23 (A) \$50,000 in the case of any individual
24 (except that the civil penalty may not exceed
25 \$1,000 in the case of an initial violation of this

1 Act by an individual moving regulated articles
2 not for monetary gain), \$250,000 in the case
3 of any other person for each violation, and
4 \$500,000 for all violations adjudicated in a sin-
5 gle proceeding; or

6 (B) twice the gross gain or gross loss for
7 any violation or forgery, counterfeiting, or un-
8 authorized use, defacing or destruction of a cer-
9 tificate, permit, or other document provided for
10 in this Act that results in the person deriving
11 pecuniary gain or causing pecuniary loss to an-
12 other.

13 (2) FACTORS IN DETERMINING CIVIL PEN-
14 ALTY.—In determining the amount of a civil penalty,
15 the Secretary shall take into account the nature, cir-
16 cumstance, extent, and gravity of the violation or
17 violations and the Secretary may consider, with re-
18 spect to the violator, ability to pay, effect on ability
19 to continue to do business, any history of prior viola-
20 tions, the degree of culpability, and any other factors
21 the Secretary deems appropriate.

22 (3) SETTLEMENT OF CIVIL PENALTIES.—The
23 Secretary may compromise, modify, or remit, with or
24 without conditions, any civil penalty that may be as-
25 sessed under this subsection.

1 (4) FINALITY OF ORDERS.—The order of the
2 Secretary assessing a civil penalty shall be treated as
3 a final order reviewable under chapter 158 of title
4 28, United States Code. The validity of the Sec-
5 retary’s order may not be reviewed in an action to
6 collect the civil penalty. Any civil penalty not paid in
7 full when due under an order assessing the civil pen-
8 alty shall thereafter accrue interest until paid at the
9 rate of interest applicable to civil judgments of the
10 courts of the United States.

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

17 (d) GUIDELINES FOR CIVIL PENALTIES.—The Sec-
18 retary shall coordinate with the Attorney General to estab-
19 lish guidelines to determine under what circumstances the
20 Secretary may issue a civil penalty or suitable notice of
21 warning in lieu of prosecution by the Attorney General of
22 a violation of this Act.

23 **SEC. 205. ENFORCEMENT ACTIONS OF ATTORNEY GEN-**
24 **ERAL.**

25 The Attorney General may—

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

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

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

17 **SEC. 206. COURT JURISDICTION.**

18 (a) IN GENERAL.—The United States district courts,
19 the District Court of Guam, the District Court of the Vir-
20 gin Islands, the highest court of American Samoa, and
21 the United States courts of other territories and posses-
22 sions are vested with jurisdiction in all cases arising under
23 this Act. Any action arising under this Act may be
24 brought, and process may be served, in the judicial district
25 where a violation or interference occurred or is about to

1 occur, or where the person charged with the violation, in-
 2 terference, impending violation, impending interference, or
 3 failure to pay resides, is found, transacts business, is li-
 4 censed to do business, or is incorporated.

5 (b) EXCEPTION.—This section does not apply to the
 6 imposition of civil penalties under section 204(b).

7 **TITLE III—MISCELLANEOUS** 8 **PROVISIONS**

9 **SEC. 301. COOPERATION.**

10 (a) IN GENERAL.—The Secretary may cooperate with
 11 other Federal agencies or entities, States or political sub-
 12 divisions of States, national governments, local govern-
 13 ments of other nations, domestic or international organi-
 14 zations, domestic or international associations, and other
 15 persons to carry 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 uti-

1 lizing 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. 302. BUILDINGS, LAND, PEOPLE, CLAIMS, AND AGREE-**
 9 **MENTS.**

10 (a) IN GENERAL.—The Secretary may acquire and
 11 maintain all real or personal property for special purposes
 12 and employ any persons, make grants, and enter into any
 13 contracts, cooperative agreements, memoranda of under-
 14 standing, or other agreements, necessary for carrying out
 15 this Act.

16 (b) TORT CLAIMS.—

17 (1) IN GENERAL.—Except as provided in para-
 18 graph (2), the Secretary may pay tort claims in the
 19 manner authorized in the first paragraph of section
 20 2672 of title 28, United States Code, when the
 21 claims arise outside the United States in connection
 22 with activities that are authorized under this Act.

23 (2) REQUIREMENTS OF CLAIM.—A claim may
 24 not be allowed under this subsection unless it is pre-

1 sented in writing to the Secretary within two years
2 after the claim accrues.

3 **SEC. 303. REIMBURSABLE AGREEMENTS.**

4 (a) **AUTHORITY TO ENTER INTO AGREEMENTS.—**

5 The Secretary may enter into reimbursable fee agreements
6 with persons for preclearance of plants, plant products,
7 biological control organisms, and articles at locations out-
8 side the United States for movement to the United States.

9 (b) **FUNDS COLLECTED FOR PRECLEARANCE.—**

10 Funds collected for preclearance shall be credited to ac-
11 counts which may be established by the Secretary for this
12 purpose and shall remain available until expended for the
13 preclearance activities without fiscal year limitation.

14 (c) **PAYMENT OF EMPLOYEES.—**

15 (1) **IN GENERAL.—**Notwithstanding any other
16 law, the Secretary may pay employees of the Depart-
17 ment of Agriculture performing services relating to
18 imports into and exports from the United States, for
19 all overtime, night, or holiday work performed by
20 them, at rates of pay established by the Secretary.

21 (2) **REIMBURSEMENT OF THE SECRETARY.—**

22 (A) **IN GENERAL.—**The Secretary may re-
23 quire persons for whom the services are per-
24 formed to reimburse the Secretary for any sums
25 of money paid by the Secretary for the services.

1 (B) USE OF FUNDS.—All funds collected
2 under this subsection shall be credited to the
3 account that incurs the costs and shall remain
4 available until expended without fiscal year lim-
5 itation.

6 (d) LATE PAYMENT PENALTIES.—

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

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

16 **SEC. 304. REGULATIONS AND ORDERS.**

17 The Secretary may issue such regulations and orders
18 as the Secretary considers necessary to carry out this Act.

19 **SEC. 305. PROTECTION FOR MAIL HANDLERS.**

20 This Act shall not apply to any employee of the
21 United States in the performance of the duties of the em-
22 ployee in handling the mail.

23 **SEC. 306. PREEMPTION.**

24 (a) REGULATION OF FOREIGN COMMERCE.—No
25 State or political subdivision of a State may regulate in

1 foreign commerce any article, means of conveyance, plant,
2 biological control organism, plant pest, noxious weed, or
3 plant product in order to control a plant pest or noxious
4 weed, eradicate a plant pest or noxious weed, or prevent
5 the introduction or dissemination of a biological control
6 organism, plant pest or noxious weed.

7 (b) REGULATION OF INTERSTATE COMMERCE.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), no State or political subdivision of a
10 State may regulate the movement in interstate com-
11 merce of any article, means of conveyance, plant, bi-
12 ological control organism, plant pest, noxious weed,
13 or plant product in order to control a plant pest or
14 noxious weed, eradicate a plant pest or noxious
15 weed, or prevent the introduction or dissemination
16 of a biological control organism, plant pest or nox-
17 ious weed, if the Secretary has issued a regulation
18 or order to prevent the dissemination of the biologi-
19 cal control organism, plant pest or noxious weed
20 within the United States.

21 (2) EXCEPTIONS.—

22 (A) REGULATIONS CONSISTENT WITH FED-
23 ERAL REGULATIONS.—A State or a political
24 subdivision of a State may impose prohibitions
25 or restrictions upon the movement in interstate

1 commerce of articles, means of conveyance,
2 plants, biological control organisms, plant pests,
3 noxious weeds, or plant products that are con-
4 sistent with and do not exceed the regulations
5 or orders issued by the Secretary.

6 (B) SPECIAL NEED.—A State or political
7 subdivision of a State may impose prohibitions
8 or restrictions upon the movement in interstate
9 commerce of articles, means of conveyance,
10 plants, plant products, biological control orga-
11 nisms, plant pests, or noxious weeds that are in
12 addition to the prohibitions or restrictions im-
13 posed by the Secretary, if the State or political
14 subdivision of a State demonstrates to the Sec-
15 retary and the Secretary finds that there is a
16 special need for additional prohibitions or re-
17 strictions based on sound scientific data or a
18 thorough risk assessment.

19 **SEC. 307. SEVERABILITY.**

20 If any provision of this Act or application of any pro-
21 vision of this Act to any person or circumstances is held
22 invalid, the remainder of this Act and the application of
23 the provision to other persons and circumstances shall not
24 be affected by the invalidity.

1 **SEC. 308. REPEAL OF SUPERSEDED LAWS.**

2 (a) REPEAL.—The following provisions of law are
3 hereby repealed:

4 (1) The Act of August 20, 1912 (commonly
5 known as the Plant Quarantine Act; 7 U.S.C. 151–
6 164a, 167).

7 (2) The Federal Plant Pest Act (7 U.S.C.
8 150aa et seq., 7 U.S.C. 147a note).

9 (3) Subsections (a) through (e) of section 102
10 of the Department of Agriculture Organic Act of
11 1944 (7 U.S.C. 147a).

12 (4) The Federal Noxious Weed Act of 1974 (7
13 U.S.C. 2801 et seq.), except section 15 of such Act
14 (7 U.S.C. 2814).

15 (5) The Act of January 31, 1942 (commonly
16 known as the Mexican Border Act; 7 U.S.C. 149).

17 (6) The Joint Resolution of April 6, 1937 (com-
18 monly known as the Insect Control Act; 7 U.S.C.
19 148 et seq.).

20 (7) The Act of August 28, 1950 (Public Law
21 735; 7 U.S.C. 2260).

22 (8) The Halogeton Glomeratus Act (7 U.S.C.
23 1651 et seq.).

24 (9) The Golden Nematode Act (7 U.S.C. 150 et
25 seq.).

1 (10) Section 1773 of the Food Security Act of
2 1985 (Public Law 99–198; 7 U.S.C. 148f).

3 (b) EMERGENCY TRANSFER AUTHORITY REGARDING
4 PLANT PESTS.—The first section of Public Law 97–46
5 (7 U.S.C. 147b) is amended—

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

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

10 (c) EFFECT ON REGULATIONS.—Regulations issued
11 under the authority of a provision of law repealed by sub-
12 section (a) shall remain in effect until such time as the
13 Secretary issues a regulation under section 304 that su-
14 persedes the earlier regulation.

15 **TITLE IV—AUTHORIZATION OF** 16 **APPROPRIATIONS**

17 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such
19 amounts as may be necessary to carry out this Act. Except
20 as specifically authorized by law, no part of the money
21 appropriated under this section shall be used to pay in-
22 demnities for property injured or destroyed by or at the
23 direction of the Secretary.

1 **SEC. 402. TRANSFER AUTHORITY.**

2 (a) **AUTHORITY TO TRANSFER CERTAIN FUNDS.—**

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

12 (b) **AVAILABILITY.**—Any funds transferred under
13 this section shall remain available for such purposes with-
14 out fiscal year limitation.

○