

United States Department of Agriculture
Marketing and Regulatory Programs
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Livestock and Seed Program
Seed Regulatory and Testing Branch

CONTENTS

Page

FEDERAL SEED ACT

Title I - Definitions	1
Title II - Interstate Commerce	3
Section 201: Prohibitions Relating to Interstate Commerce in Certain Seeds	3
Section 202: Records	6
Section 203: Exemptions	6
Section 204: Disclaimers and Nonwarranties	7
Section 205: False Advertising	7
Title III - Foreign Commerce	8
Section 301 and 302: Prohibitions and Procedures Relating to Importations	8
Section 303: Certain Seeds Required to be Stained	9
Section 304: Certain Acts Prohibited	10
Title IV - General Provisions	10
Section 401: Delegation of Duties	10
Section 402: Rules and Regulations	10
Section 403: Standards, Tests, and Tolerances	10
Section 404: Prohibition against Alterations	10
Section 405: Seizure	11
Section 406, 407, and 408: Penalties	11
Section 409, 410, and 411: Cease and Desist Proceedings	11
Section 412 and 413: Separability of Proceedings	13
Section 414: Publication	13
Section 415: Authorization for Appropriations	13
Section 416: Authorization for Expenditures	14
Section 417: Cooperation	14
Section 418: Separability of Provisions	14
Section 419: Repeals	14
Section 420: Effective Date	14
Title V - Sale of Uncertified Seed of a Protected Variety	14

FEDERAL SEED ACT¹
(7 U.S.C. 1551-1611)

An Act to regulate interstate and foreign commerce in seeds; to require labeling and to prevent misrepresentation of seeds in interstate commerce; to require certain standards with respect to certain imported seeds; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Federal Seed Act."

TITLE I - DEFINITIONS

Sec. 101.² (A) When used in this Act--

(1) The term "United States" means the several States, District of Columbia, and Puerto Rico.

(2) The term "person" includes a partnership, corporation, company, society, or association.

(3) The term "interstate commerce" means

(A) commerce between any State, Territory, possession, or the District of Columbia, and any other State, Territory, possession, or the District of Columbia; or

(B) commerce between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or

(C) commerce within the District of Columbia

(4) For the purpose of this Act with respect to labeling for treatment, variety, and origin (but not in anyway limiting the foregoing definition), seeds shall be considered to be in interstate commerce, or delivered for transportation in interstate commerce, if such seeds are part of, or delivered for transportation and/or merchandising of seeds, whereby such seeds are sent from one State with the expectation that they will end their transit in another, including, in addition to cases within the above general description, all cases where seeds are transported or delivered for transportation to another State, or for processing or cleaning for seeding purposes within the State and shipment outside the State of the processed or cleaned seeds. Seeds normally in such concurrent of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this Act.

(5) The term "foreign commerce" means commerce between the United States, its possessions, or any Territory of the United States, and any foreign country.

(6) The term

(A) "district court of the United States" means any court exercising the powers of a district court of the United States.

(B) "court of appeals," in case the principal place of business or the place or residence of a person against whom a cease and desist order is issued in the District of Columbia, includes the Court of Appeals of the District of Columbia.

(7) The term--

(A) "Agricultural seeds" shall mean grass, forage, and field crop seeds which the Secretary of Agriculture finds are used for seeding purposes in the United States and which he lists in the rules and regulations prescribed under section 402 of this Act.

(B) "Vegetable seeds" shall include the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be generally known and sold under the name of vegetable seeds.

(8) For the purpose of title II, the term "weed seeds" means the seeds or bulblets of plants recognized as weeds either by the law or rules and regulations of --

(A) The State into which the seed is offered for transportation, or transported; or

(B) Puerto Rico, Guam, or District of Columbia into which transported, or the District of Columbia in which sold.

¹ Approved August 9, 1939, 53 Stat. 1275.

² Section as amended by Act of June 25, 1948, 62 Stat. 870; Act of August 1, 1956, 70 Stat. 908; Act of August 1, 1958, 72 Stat. 476; and Act of October 15, 1966, 80 Stat. 975. The latter Act amended the section, in part, by deleting the former list of agricultural seeds and providing for the Secretary to list them in the regulations, and by substituting "soybean, flax, carrot, radish" for "wheat, oat, vetch, sweetclover," Pub. L. 97-439, 96 Stat. 2287, approved January 8, 1983, deleted the terms "weed seeds" and "pure-live seed" for purposes of title III.

(9) (A) For the purpose of title II, the term "noxious-weed seeds" means the seeds or bulblets of plants recognized as noxious--

- (i) by the law or rules and regulations of the State into which the seed is offered for transportation, or transported;
- (ii) by the law or rules and regulations of Puerto Rico, Guam, or the District of Columbia in which sold; or
- (iii) by the rules and regulations of the Secretary of Agriculture under this Act, when after investigation he shall determine that a weed is noxious in the United States or in any specifically designated area thereof.

(B) For the purpose of title III, the term "noxious-weed seeds" means the seeds of Lepidium draba L., Lepidium repens (Schrenk) Boiss., Hymenophyssa pubescens C.A. Mey, white top; Cirsium arvense (L.) Scop., Canada thistle; Cuscuta spp., dodder; Agropyron repens (L.) Beauv., quackgrass; Sorghum halepense (L.) Pers., Johnsongrass; Convolvulus arvensis L., bindweed; Centaurea picris Pall., Russian knapweed; Sonchus arvensis L., perennial sowthistle; Euphorobia esula L., leafy spurge; and seeds or bulblets of any other kinds which after investigation the Secretary of Agriculture finds should be included.

(10) The term "origin" means the State, District of Columbia, Puerto Rico, or possession of the United States, or the foreign country, or designated portion thereof, where the seed was grown.

(11) The term "kind" means one or more related species or subspecies which singly or collectively is known by one common name, for example, soybean, flax, carrot, radish, cabbage, cauliflower, and so forth.

(12) The term "variety" means a subdivision of a kind which is characterized by growth, plant, fruit, seed or other characters by which it can be differentiated from other sorts of the same kind, for example, Marquis wheat, Flat Dutch Cabbage, Manchu soybeans, Oxheart carrot, and so forth.

(13) The term "type" means either (A) a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions, or (B) when used with a variety name means seed of the variety named which may be mixed with seed of other varieties of the same kind and of similar character, the manner of and the circumstances connected with the use of the designation to be governed by rules and regulations prescribed under section 402 of this Act.

(14) The term "germination" means the percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions (not including seeds which produce weak, malformed, or obviously abnormal sprouts), determined by methods prescribed under section 403 of this Act.

(15) The term "hard seed" means the percentage of seeds which because of hardness or impermeability do not absorb moisture or germinate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned, determined by methods prescribed under section 403 of this Act.

(16) The term "inert matter" means all matter not seeds, and includes among others broken seeds, sterile florets, chaff, fungus bodies, and stones, determined by methods prescribed under section 403 of this Act.

(17) The term "label" means the display or displays of written, printed, or graphic matter upon or attached to the container of seed.

(18) The term "labeling" includes all labeling, and other written, printed, and graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

(19) The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this Act.

(20) Subject to such tolerances as the Secretary of Agriculture is authorized to prescribe under the provisions of this Act--

(A) the term "false labeling" means any labeling which is false or misleading in any particular;

(B) the term "false advertisement" means any advertisement which is false or misleading in any particular.

(21) The term "screenings" shall include chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing which contain less than 25 per centum of live agricultural or vegetable seeds.

(22) The term "in bulk" refers to seed when loose either in vehicles of transportation or in storage, and not to seed in bags or other containers.

(23) The term "treated" means given an application of a substance or subjected to a process designed to reduce, control, or repel disease organisms, insects or other pests which attack seeds or

seedlings growing therefrom.

(24) The term "seed certifying agency"³ means (A) an agency authorized under the laws of a State, Territory, or possession, to officially certify seed and which has standards and procedures approved by the Secretary (after due notice, hearings, and full consideration of the views of farmer users of certified seed and other interested parties) to assure the genetic purity and identity of the seed certified, or (B) an agency of a foreign country determined by the Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under (A). (7 U.S.C. 1561.)

Section 102.⁴ Any labelings, advertisement, or other representation subject to this Act which represents that any seed is certified seed or any class thereof shall be deemed to be false in this respect unless (a) it has been determined by a seed certifying agency that such seed conformed to standards of genetic purity and identity as to kind or variety, and is in compliance with the rules and regulations of such agency pertaining to such seed; and (b) the seed bears an official label issued for such seed by a seed certifying agency certifying that the seed is of a specified class and a specified kind or variety.

Seed of a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed shall be certified only when

(1) the basic seed from which the variety was produced and furnished by authority of the owner of the variety if the certification is made during the term of protection, and

(2) it conforms to the number of generations designated by the certificate, if the certificate contains such a designation. (7 U.S.C. 1562.)

TITLE II--INTERSTATE COMMERCE

PROHIBITIONS RELATING TO INTERSTATE COMMERCE IN CERTAIN SEEDS

Sec. 201.⁵ It shall be unlawful for any person to transport or deliver for transportation in interstate commerce--

(a) Any agricultural seeds or any mixture of agricultural seeds for seeding purposes, unless each containers bears a label giving the following information in accordance with rules and regulations prescribed under section 402 of this Act.

(1) The name of the kind or kind and variety for each agricultural seed component present in excess of 5 per centum of the whole and the percentage by weight of each: Provided , That (A), except with respect to seed mixtures intended for lawn and turf purposes, if any such component is one which the Secretary of Agriculture has determined, in rules and regulations prescribed under section 402 of this Act, is generally labeled as to variety, the label shall bear, in addition to the name of the kind, either the name of such variety or the statement "Variety Not Stated," (B) in the case of any such component which is a hybrid seed it shall, in addition to the above requirements, be designated as hybrid on the label, and (C) seed mixtures intended for lawn and turf purposes shall be designated as a mixture on the label and each seed component shall be listed on the label in the order of predominance;

(2) Lot number or other identification;

(3) Origin, stated in accordance with paragraph (a)(1) of this section, of each agricultural seed present which has been designated by the Secretary of Agriculture as one on which a knowledge of the origin is important from the standpoint of crop production, if the origin is known, and if each such seed is

³ Amended by P.L. 91-89, enacted October 17, 1969, 83 Stat.134.

⁴ Section added by Act of August 1, 1958, 72 Stat. 476, as amended by PL. 91-89, enacted October 17, 1969, 83 Stat. 134 and PL. 91-577, 84 Stat. 1558, approved December 24, 1970.

⁵ Act of August 1, 1958, 72 Stat. 476, amended section with respect to percentages and varieties. Act of October 15, 1966, 80 Stat. 975, amended section with respect to hybrid seed, requirements for seed in containers of one-pound or less and in containers of more than one-pound, provided for new requirements dealing with seed packaged in containers which will maintain seed viability, and set forth requirements for lawn and turf seed mixtures. Pub. L. 97-439, 96 Stat. 2287, dated January 8, 1983, amended section with respect to lawn and turf seed labeling requirements, seed mixture test dates, and period between germination tests and transportation.

present in excess of 5 per centum. If the origin of such agricultural seed or seeds is unknown, that fact shall be stated;

(4) Percentage by weight of weed seeds, including noxious-weed seeds;

(5) Kinds of noxious-weed seeds and the rate of occurrence of each, which rate shall be expressed in accordance with and shall not exceed the rate allowed for shipment, movement, or sale of such noxious-weed seeds by the law and regulations of the State into which the seed is offered for transportation or transported or in accordance with the rules and regulations of the Secretary of Agriculture, when under the provisions of section 101(a)(9)(A)(iii) he shall determine that weeds other than those designated by State requirements are noxious;

(6) Percentage by weight of agricultural seeds other than those included under Paragraph (a)(1) of this section;

(7) Percentage by weight of inert matter;

(8) For each agricultural seed, in excess of 5 per centum of the whole, stated in accordance with paragraph (a)(1) of this section, and each kind or variety or type of agricultural seed shown in the labeling to be present in a proportion of 5 per centum or less of the whole, (A) percentage of germination, exclusive of hard seed, (B) percentage of hard seed, if present, and © the calendar month and year the test was completed to determine such percentages, except that, in the case of a seed mixture, it is only necessary to state the calendar month and year of such test for the kind or variety or type of agricultural seed contained in such mixture which has the oldest calendar month and year test date among the tests conducted on all the kinds or varieties or types of agricultural seed contained in such mixture;

(9) Name and address of (A) the person who transports, or delivers for transportation, said seed in interstate commerce, or (B) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 402 of this Act, indicating the person who transports or delivers for transportation said seed in interstate commerce;

(10) The year and month beyond which an inoculant, if shown in the labeling, is no longer claimed to be effective

(b) Any vegetable seeds, for seedling purposes, in containers, unless each containers bears a label giving the following information in accordance with rules and regulations prescribed under section 402 of this Act:

(1) For containers of one pound or less of seed that germinates equal to or above the standard last established by the Secretary of Agriculture, as provided under section 403© of this Act--

(A) The name of each kind and variety of seed, and if two or more kinds of varieties are present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label; and

(B) Name and address of--

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 402 of this Act, indicating the person who transports or delivers for transportation said seed in interstate commerce;

(2) For containers of one pound or less of seed that germinates less than the standard last established by the Secretary of Agriculture, as provided under section 403(c) of this Act--

(A) The name of each kind and variety of seed, and if two or more kinds of varieties are present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label; and

(B) For each named kind and variety of seed--

(i) the percentage of germination, exclusive of hard seed;

(ii) the percentage of hard seed, if present;

(iii) the calendar month and year the test was completed to determine such percentages;

(iv) the words "Below Standard"; and

(C) Name and address of--

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under the rules and regulations prescribed under

section 402 of this Act, indicating the person who transports or delivers for transportation said seed in interstate commerce.

(3) For containers of more than one pound of seed--

(A) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each and, further, that in the case of any such component which is a hybrid seed, it shall be designated as a hybrid on the label;

(B) Lot number or other lot identification

(C) For each named kind and variety of seed--

(i) the percentage of germination, exclusive of hard seed;

(ii) the percentage of hard seed, if present;

(iii) the calendar month and year the test was completed to determine such percentages; and

(D) Name and address of--

(i) the person who transports, or delivers for transportation, said seed in interstate commerce; or

(ii) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 402 of this Act, indicating the person who transports or delivers for transportation said seed in interstate commerce.

(c) Any agricultural or vegetable seed unless the test to determine the percentage of germination required by this section shall have been completed within a five-month period, exclusive of the calendar month in which the test was completed, immediately prior to transportation or deliver for transportation in interstate commerce: Provided, however, That the Secretary of Agriculture may by rules and regulations designate: (a) a shorter period for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will not maintain, during the aforesaid five-month period, a germination within the established limits of tolerance; or (2) a longer period for any kind of agricultural or vegetable seed which (A) is packaged in such container materials and under such other conditions prescribed by the Secretary of Agriculture as he finds will, during such longer period, maintain the viability of said seed under ordinary conditions of handling; or (B) the Secretary finds will maintain a percentage of germination within the limits of tolerance established under this Act under ordinary conditions of handling.

(d) Any agricultural seeds or vegetable seeds having a false labeling, or pertaining to which there has been a false advertisement, or to sell or offer for sale such seed for interstate shipment by himself or others.

(e) Seed which is required to be stained under the provisions of this Act and the regulations made and promulgated thereunder, and is not so stained.

(f) Seed which has been stained to resemble seed stained in accordance with the provisions of this Act and the regulations made and promulgated thereunder.

(g) Seed which is a mixture of seeds which are required to be stained or which are stained with different colors under the provisions of this Act and of the regulations made and promulgated thereunder, or which is a mixture of any seed required to be stained under the provisions of this Act and of the regulations made and promulgated thereunder, with seed of the same kind produced in the United States.

(h) Screenings of any seed subject to this Act, unless they are not intended for seeding purposes; and it is stated on the label, if in containers, or on the invoice, if in bulk, that they are intended for cleaning, processing or manufacturing purposes, and not for seeding purposes.

(i) Any agricultural seeds or any mixture thereof or any vegetable seeds or any mixture thereof, for seeding purposes, that have been treated, unless each containers thereof bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 402 of this Act:

(1) A word or statement indicating that the seeds have been treated;

(2) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment;

(3) If the substance used in such treatment in the amount remaining with the seeds is harmful to humans or other vertebrate animals, an appropriate caution statement provided by the Secretary of Agriculture as adequate for the protection of the public, such as "Do not use for food or feed or oil purposes": Provided, That the caution statement for mercurials and similarly toxic substances, as defined in said rules and regulations, shall be a representation of a skull and crossbones and a statement such as "This seed has been treated with POISON," in red letters on a background of distinctly contrasting color; and

(4) A description, approved by the Secretary of Agriculture as adequate for the protection of the public, of any process used in such treatment. (7 U.S.C. 1571.)

RECORDS

Sec. 202.⁶ All persons transporting, or delivering for transportation, in interstate commerce, agricultural seeds shall keep for a period of three years a complete record of origin, treatment, germination, and purity of each lot of such agricultural seeds, and all persons transporting, or delivering for transportation, in interstate commerce, vegetable seeds shall keep for a period of three years a complete record of treatment, germination, and variety of such vegetable seeds. The Secretary of Agriculture, or his duly authorized agents, shall have the right to inspect such records for the purpose of the effective administration of this Act. (7 U.S.C. 1572.)

EXEMPTIONS

Sec. 203.⁷ (a) The provisions of sections 201 and 202 shall not apply to any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier: Provided, That such carrier is not engaged in processing or merchandising seed subject to the provisions of this Act; and such provisions shall not apply to seeds produced by any farmer on his own premises and sold by him directly to the consumer, provided such farmer is not engaged in the business of selling seeds not produced by him: And provided further, That such seeds produced or sold by him when transported or offered for transportation to any State, Territory, or District, shall not be exempted from the provisions of sections 201 and 202 unless said seeds shall be in compliance with the operation and effect of the laws of such State, Territory, or District, enacted in the exercise of its police power, to the same extent and in the same manner as though such seed had been produced, sold, offered or exposed for sale in such State, Territory, or District, and shall not be exempted therefrom by reason of being introduced therein in original packages or otherwise: And provided further, That such seeds produced or sold by him are in compliance with the seed laws of the State into which the seed is transported.

(b) The provisions of section 201 (a), (b), or (i) shall not apply--

(1) to seed or grain not intended for seeding purposes when transported or offered for transportation in ordinary channels of commerce usual for such seed or grain intended for manufacture or feeding; or

(2) to seed intended for seeding purposes when transported or offered for transportation in interstate commerce--

(A) if in bulk, in which case, however, the invoice or other records accompanying and pertaining to such seed shall bear the various statements required for the respective seeds under sections 201 (a), (b), and (i); or

(B) if in containers and in quantities of twenty thousand pounds or more: Provided, That (i) the omission from each container of the information required under sections 201 (a), (b), and (i) is with the knowledge and consent of the consignee prior to the transportation or delivery for transportation of such seed in interstate commerce, (ii) each container shall have stenciled upon it or bear a label containing a lot designation, and (iii) the invoice or other records accompanying and pertaining to such seed shall bear the various statements required for the respective seeds under section 201(a), (b), and (i); or

(C) if consigned to a seed cleaning or processing establishment, to be cleaned or processed for seeding purposes: Provided, That (i) this fact is so stated in the invoice or other records accompanying and pertaining to such seed if the seed is in bulk or if the seed is in containers and in quantities of twenty thousand pounds or more, (ii) this fact is so stated on attached labels, if the seed is in containers and in quantities less than twenty thousand pounds, and (iii) any such seed later to be labeled as to origin and/or variety shall be labeled as to origin and/or variety in accordance with rules and regulations prescribed under section 402 of this Act.

(c) When the Secretary of Agriculture finds that, because of the time interval between seed harvesting

⁶ Act of August 1, 1958, 72 Stat. 477, added the requirement for the keeping of records of vegetable seeds, and the Act of October 15, 1966, 80 Stat. 978, added the word "treatment."

⁷ Section as amended by Act of August 1, 1958, 72 Stat. 477, and Act of October 15, 1966, 80 Stat. 978.

and sowing, or be cause of an emergency beyond human control, the information required by this Act as to the germination, and hard seed of certain kinds of seeds, cannot be given prior to transportation or delivery for transportation in interstate commerce, he may promulgate, with or without a hearing, rules and regulations providing that the provisions of sections 201(a) and (b) as to the required labeling for germination and hard seed shall not apply for such period and to such kinds of seed as h e may specify in his said rules and regulations.

(d) The provisions of section 201 (a) and (b) relative to the labeling of agricultural and vegetable seeds with the percentages of the kind or kind and variety of seeds shall not be deemed violated if there are seeds in the container or bulk which could not be, or were not, identified because of their indistinguishability in appearance from the seeds intended to be transported or delivered for transportation in interstate commerce: Provided, That the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclose that said person has taken reasonable precautions to insure the identity of the seeds to be that stated.

(e) The provisions of section 201 (i) relative to the labeling of agricultural and vegetable seeds with the name of any substance used in the treatment of seeds shall not be deemed violated if the substance or substances used in such treatment could not be or were not identified because of their indistinguishability from the substance or substances intended to be used in the treatment of the seeds: Provided, That the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclosed that said person has taken reasonable precautions to insure the identity of the substance or substances to be as stated. (7 U.S.C. 1573.)

DISCLAIMERS AND NONWARRANTIES

Sec. 204.⁸ The use of a disclaimer, limited warranty, or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution or other proceeding brought under the provisions of this Act, or rules and regulations made and promulgated thereunder. Nothing in this section is intended to preclude the use of a disclaimer, limited warranty, or nonwarranty clause as a defense in any proceeding not brought under this Act. (7 U.S.C. 1574.)

FALSE ADVERTISING

Sec. 205. It shall be unlawful for any person to disseminate, or cause to be disseminated, any false advertisement concerning seed, by the united states mails, or in interstate or foreign commerce, in any manner or by any means, including radio broadcasts: Provided, however, That no person, advertising agency, or medium for the dissemination of advertising, except the person who transported, delivered for transportation, sold, or offered for sale seed to which the false advertisement relates, shall be liable under this section by reason of disseminating or causing to be disseminated any false advertisement, unless he or it has refused, on the request of the Secretary of Agriculture, to furnish the Secretary the name and post-office address of the person, or advertising agency, residing in the United States, who caused, directly or indirectly, the dissemination of such advertisement. (7 U.S.C. 1575.)

⁸ Section as amended by Act of July 9, 1956, 70 Stat. 508: and Act of August 1, 1958, 72 Stat. 4787.

TITLE III--FOREIGN COMMERCE⁹

PROHIBITIONS AND PROCEDURES RELATING TO IMPORTATIONS

Sec. 301.¹⁰ (a) The importation into the United States is prohibited of--

(1) any agricultural or vegetable seeds if any such seed contains noxious-weed seeds, or the labeling of which is false or misleading in any respect;

(2) screenings of any seeds subject to title III of this Act (except that this shall not apply to screenings of wheat, oats, rye, barley, buckwheat, field corn, sorghum, broomcorn, flax, millet, proso, soybeans, cowpeas, field peas, or field beans, which are not imported for seeding purposes and are declared for cleaning, processing, or manufacturing purposes, and not for seeding purposes);

(3) any seed containing 10 per centum or more of any agricultural or vegetable seeds, unless the invoice pertaining to such seed and any other labeling of such seed bear a lot identification and the name of each kind or kind and variety of vegetable seed present in any amount and each kind or kind and variety of agricultural seed present in excess of 5 per centum of the whole, and unless in the case of hybrid seed present in excess of 5 per centum of the whole it is designated as hybrid;

(4) any agricultural seeds or any mixture thereof, or any vegetable seeds or any mixture thereof, for seeding purposes, that have been treated, unless each container thereof bears a label giving the following information and statements in accordance with rules and regulations prescribed under section 402 of this Act:

(A) A word or statement indicating that the seeds have been treated;

(B) The commonly accepted coined, chemical (generic), or abbreviated chemical name of any substance used in such treatment;

(C) If the substance used in such treatment in the amount remaining with the seeds is harmful to humans or other vertebrate animals, an appropriate caution statement approved by the Secretary of Agriculture as adequate for the protection of the public, such as "Do not use for food or feed or oil purposes:" Provided, That the caution statement for mercurials and similarly toxic substances, as defined in said rules and regulations, shall be a representation of a skull and crossbones and a statement such as "This seed had been treated with POISON," in red letters on a background of distinctly contrasting color; and

(D) A description, approved by the Secretary of Agriculture as adequate for the protection of the public, of any process used in such treatment. (7 U.S.C. 1581.)

Sec. 302.¹¹ (a) The Secretary of the Treasury shall deliver to the Secretary of Agriculture, subject to joint rules and regulations prescribed under section 402 of this Act, samples of seed and screenings which are being imported into the United States, or offered for import, giving notice thereof to the owner or consignee, and if it appears from the examination of such samples that seed or screenings offered to be imported into the United States are subject to the provisions of this title and do not comply with the provisions of this title, or if the labeling of such seed is false or misleading in any respect, such seed or screenings shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the owner or consignee, who may appear, however, before the Secretary of Agriculture and show cause why the seed or screenings should be admitted. Seed or screenings refused admission and not exported by the owner or consignee

⁹ Effective Oct. 1, 1982, the responsibility for administering Title III was transferred to the Animal and Plant Health Inspection Service (APHIS) by Secretary's Memorandum 1030-5, dated Aug. 30, 1982. A memorandum of Understanding, between Agricultural Marketing Service (AMS) and APHIS, dated Sept. 28, 1982, approved such transfers of funds, personnel, and incidentals as necessary to implement the provisions of SM 1030-5.

¹⁰ Section as amended by Act of August 1, 1958, 72 Stat. 478; Act of October 15, 1966, 80 Stat. 978, and Pub. L. 97-439, 96 Stat. 2288, approved January 8, 1983.

Sec. 451 of Pub. L. 103-465, 108 Stat. 4973, Dec. 8, 1994, provides that amendments by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States except as otherwise provided. (19 U.S.C. 3601 note.)

¹¹ Section as amended by Act of August 1, 1958, 72 Stat. 478; and Act of October 15, 1966, 80 Stat. 975. Latter Act amended section to authorize Secretary of Agriculture to apply statistical sampling techniques. Further amended by Pub. L. 97-439, 96 Stat. 2288, dated Jan. 8, 1983. Subsection (e) was generally amended by Pub. L. 100-449, 102 Stat. 1868, Sept. 28, 1988. Subsequently, Pub. L. 103-465, 108 Stat. 4973, Dec. 8, 1994, deleted subsection (e), and also struck "staining," before "cleaning, labeling" in two places in subsection (a). See footnote 10, second paragraph.

within twelve months from the date of notice of such refusal shall be destroyed in accordance with joint rules and regulations prescribed under section 402 of this Act; Provided, That the Secretary of the Treasury may authorize the delivery of seed or screenings which are being imported or offered for import to the owner or consignee thereof, pending decision as to the admission of such seed or screenings and for straining, cleaning, labeling, or other reconditioning if required to bring such seed or screenings into compliance with the provisions of this Act, upon the execution by such owner or consignee of a good and sufficient bond conditioned upon redelivery of the seed or screenings upon demand unless redelivery is waived because the seed is reconditioned to bring it into compliance with this Act or is destroyed under Government supervision under this Act, and providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury: And provided further, That all expenses incurred by the United States (including travel, per diem or subsistence, and salaries of officers or employees of the United States) in connection with the supervision of staining, cleaning, labeling, other reconditioning, or destruction, of seed or screenings under this title shall be reimbursed to the United States by the owner or consignee of the seed or screenings, and such reimbursements shall be reccredited to the appropriation from which the expenses were paid, the amount of such expenses to be determined in accordance with joint regulations under section 402 of this Act, and all expenses in connection with the storage, cartage, and labor on the seed or screenings which are refused admission or delivery, shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against future importations made by such owner or consignee.

(b) The refuse from any seeds or screenings which are allowed to be cleaned under bond shall be destroyed in accordance with joint rules and regulations prescribed under section 402 of this Act.

(c) The provisions of this title shall not apply--

(1) when seed is shipped in bond through the United States, or

(2) when the Secretary of Agriculture finds that a substantial proportion of the importations of any kind of seed is used for other than seeding purposes, and he provides by rules and regulations that seed of such kind not imported for seeding purposes shall be exempted from the provisions of the Act; Provided, That importations of such kinds of seed shall be accompanied by a declaration setting forth the use for which imported when and as required under joint rules and regulations prescribed under section 402 of this Act. (7 U.S.C. 1582)

(d) The provisions of this title prohibiting the importation of seed shall not apply--

(1) when seed grown in the United States is returned from a foreign country without having been admitted into the commerce of any foreign country: Provided, That there is satisfactory proof as provided for in the joint rules and regulations prescribed under section 402 of this Act, that the seed was grown in the United States and was not admitted into the commerce of a foreign country and was not commingled with other seed, or

(2) when seed is imported for sowing for experimental or breeding purposes and not for sale: Provided, That declarations are filed, and importations are limited in quantity, as provided for in the rules and regulations prescribed under section 402 of this Act, to assure that the importations are for experimental or breeding purposes.

CERTAIN SEEDS NOT ADAPTED FOR GENERAL AGRICULTURAL USE

Sec. 303.¹² Whenever the Secretary of Agriculture, after a public hearing, determines that seed of alfalfa or red clover from any foreign country is not adapted for general agricultural use in the United States, the Secretary shall publish the determination and the reasons for the determination. (7 U.S.C. 1585.)

¹² Pub. L. 97-439, 96 Stat. 228, dated January 3, 1983, repealed sections 303 and 304 (7 U.S.C. 1583 and 1584), which provided definitions of when imported seed is considered adulterated or unfit for seeding purposes, and redesignated section 305 and 306 as sections 303 and 304, respectively. Sec. 441 of Pub. L. 103-465, 108 Stat. 4973, Dec. 8, 1994, struck former section 303 (7 U.S.C. 1585) that related to a requirement that certain seeds containing alfalfa and/or red clover be stained and inserted a new section 303. See footnote 10, second paragraph.

CERTAIN ACTS PROHIBITED

Sec. 304.¹³ It shall be unlawful for any person--

(a) To sell or offer for sale--

(1) any seed for seeding purposes if imported under this title for other than seeding purposes;

(2) any screenings of any seeds for seeding purposes if imported under this title for other than seeding purposes; or

(3) any seed which is prohibited entry under the provisions of this Act.

(b) To make any false or misleading representation with respect to any seed subject to this title being imported into the United States or offered for import: Provided, That this subsection shall not be deemed violated by any person if the false or misleading representation is the name of a variety indistinguishable in appearance from the seed being imported or offered for import and the records and other pertinent facts reveal that such person relied in good faith upon representations with respect to the name of the indistinguishable variety made by the shipper of the seed. (7 U.S.C. 1586.)

TITLE IV--GENERAL PROVISIONS

DELEGATION OF DUTIES

Sec. 401. Any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this Act may with like force and effect be executed by such officer or officers, agent or agents, of the Department of Agriculture as the Secretary may designate for the purpose. (7 U.S.C. 1591.)

RULES AND REGULATIONS

Sec. 402. (a) The Secretary of Agriculture shall make such rules and regulations as he may deem necessary for the effective enforcement of this Act, except as otherwise provided in this section.

(b) The Secretary of the Treasury and the Secretary of Agriculture shall make, jointly or severally, such rules and regulations as they may deem necessary for the effective enforcement of title III of this Act.

(c) Prior to the promulgation of any rule or regulation under this Act, due notice shall be given by publication in the Federal Register of intention to promulgate and the time and place of a public hearing to be held with reference thereto, and no rule or regulation may be promulgated until after such hearing. Any rule or regulation shall become effective on the date fixed in the promulgation, which date shall be not less than thirty days after publication in the Federal Register, and may be amended or revoked in the manner provided for its promulgation. (7 U.S.C. 1592.)

STANDARDS, TESTS, AND TOLERANCES

Sec. 403. (a) The samplings, analyses, tests, or examinations of seeds made in connection with the administration of this Act shall be made by methods set forth by rules and regulations prescribed under section 402 of this Act.

(b) The Secretary of Agriculture is authorized and directed to make and promulgate by rules and regulations, reasonable tolerances as to the percentages and rates of occurrence required to be stated or required by this Act.

(c) For the purpose of section 201(b) of this Act, the Secretary of Agriculture is authorized and directed to investigate, determine, establish, and promulgate from time to time such reasonable standards of germination for each kind of vegetable seed as will in his judgment best protect crop production. (7 U.S.C. 1593.)

PROHIBITION AGAINST ALTERATIONS

Sec. 404. No person shall detach, alter, deface, or destroy any label provided for in this Act or the rules and regulations made and promulgated thereunder by the Secretary of Agriculture, or alter or substitute

¹³ Section as amended by Act of August 1, 1958, 72 Stat. 476. Sec. 441 of Pub. L. 103-465, 108 Stat. 4973, Dec. 8, 1994, deleted paragraphs (a)(4) through (7) and subsection (b), and redesignated former subsection (b) as subsection (c). See footnote 10, second paragraph.

seed in a manner that may defeat the purpose of this Act. (7 U.S.C. 1594.)

SEIZURE

Sec. 405. (a) Any seed sold, delivered for transportation in interstate commerce, or transported in interstate or foreign commerce in violation of any of the provisions of this Act shall, at the time of such violation or at any time thereafter, be liable to be proceeded against on libel of information and condemned in any district court of the United States within the jurisdiction of which the seed is found.

(b) If seed is condemned by a decree of the court as being in violation of the provisions of this Act, it may be disposed of by the court by--

(1) sale; or

(2) delivery to the owner thereof after he has appeared as claimant and paid the court costs and fees and storage and other proper expenses and executed and delivered a bond with good and sufficient sureties that such seed will not be sold or disposed of in any jurisdiction contrary to the provisions of this Act and the rules and regulations made and promulgated thereunder, or the laws of such jurisdiction; or

(3) destruction.

(c) If such seed is disposed of by sale, the proceeds of the sale, less the court costs and fees and storage and other proper expenses, shall be paid into the Treasury as miscellaneous receipts, but such seed shall not be sold or disposed of in any jurisdiction contrary to the provisions of this Act and the rules and regulations made and promulgated thereunder, or the laws of such jurisdiction.

(d) The proceedings in such libel cases shall conform, as early as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case; and such proceedings shall be at the suit of and in the name of the United States. (7 U.S.C. 1595.)

PENALTIES

Sec. 406.¹⁴ (a) Any person who knowingly, or as a result either of gross negligence or of a failure to make a reasonable effort to inform himself of the pertinent facts, violates any provision of this Act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1000 for the first offense, and upon conviction for each subsequent offense not more than \$2000.

(b) Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall forfeit to the United States a sum, not less than \$25 or more than \$500, for each such violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States. (7 U.S.C. 1596.)

Sec. 407. When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person, partnership, corporation, company, society, or association, shall in every case be also deemed to be the act, omission, or failure of such person, partnership, corporation, company, society, or association, as well as that of the person employed. (7 U.S.C. 1597.)

Sec. 408. Before any violation of this Act is reported by the Secretary of Agriculture to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding. (7 U.S.C. 1598.)

CEASE-AND-DESIST PROCEEDINGS

Sec. 409.¹⁵ (a) When the Secretary of Agriculture has reason to believe that any person has violated or is violating any of the provisions of this Act or the rules and regulations made and promulgated thereunder, he shall cause a complaint in writing to be served upon the person, stating his charges in that respect, and requiring the person to attend and testify at a hearing at a time and place designated therein, at least thirty

¹⁴ Section as amended by Act of July 9, 1956, 70 Stat. 508, which added civil penalties.

¹⁵ Section as amended by Act of June 25, 1948, 62 Stat. 991; Act of May 24, 1949, 63 Stat. 107; Act of August 28, 1958, 72 Stat. 949; and Act of June 11, 1960, 74 Stat. 200.

days after the service of such complaint; and at such time and place there shall be afforded the person a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such rules and regulations as the Secretary of Agriculture may prescribe. At any time prior to the close of the hearing the Secretary of Agriculture may amend the complaint; but in case of any amendment adding new provisions the hearing shall, on the request of the person, be adjourned for a period not exceeding fifteen days.

(b) If, after such hearing, the Secretary of Agriculture finds that the person had violated or is violating any provisions of the Act or rules and regulations covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the person an order requiring such person to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

(c) Until the record in such hearing has been filed in a court of appeals as provided in section 410, the Secretary of Agriculture at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the person to be heard, may amend or set aside the report or order in whole or in part.

(d) Complaints, orders, and other processes of the Secretary of Agriculture under this section may be served by anyone duly authorized by the Secretary of Agriculture, either (1) by delivering a copy of thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or (3) by mailing a copy thereof by registered mail or by certified mail addressed to such person, partnership, or corporation at his or its last known principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said order shall be proof of the same, and the return post-office receipt for said complaint, order, or other process mailed by registered mail or by certified mail, as aforesaid shall be proof of the service of the same. (7 U.S.C. 1599.)

Sec. 410.¹⁶ An order made under section 409 shall be final and conclusive unless within thirty days after the service the person appeals to the court of appeals for the circuit in which such person resides or has his principal place of business by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such person will pay the costs of the proceedings if the court so directs.

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code. If before such record is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

At any time after such petition is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the person and his officers, directors, agents, and employees from violating any of the provisions of the order pending the final determination of the appeal.

The evidence so taken or admitted and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.

The court may affirm, modify, or set aside the order of the Secretary. If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendation, if any, for the modification or setting aside of his order, with the return of such additional evidence.

If the court of appeals affirm or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the person and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified. (7 U.S.C. 1600.)

¹⁶ Section as amended by Act of June 25, 1948, 62 Stat. 991; Act of May 24, 1949, 63 Stat. 107; and Act of August 28, 1958, 72 Stat. 949.

Sec. 411.¹⁷ If any person against whom an order is issued under section 409 fails to obey the order, the Secretary of Agriculture, or the United States, by its Attorney General, may apply to the court of appeals of the United States, within the circuit where the person against whom the order was issued resides or has his principal place of business, for the enforcement of the order, and shall file the record in such proceedings, as provided in section 2112 of title 28, United States Code. Upon such filing of the application the court shall cause notice thereof to be served upon the person against whom the order was issued. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as provided in section 410 for applications to set aside or modify orders.

The proceedings in such cases shall be made a preferred cause and shall be expedited in every way. (7 U.S.C. 1601.)

SEPARABILITY OF PROCEEDINGS

Sec. 412.¹⁸ The institution of any one of the proceedings provided for in sections 405, 406, 409, 410, and 411, shall not bar institution of any others except that action shall not be instituted under both subsections 406(a) and (b) for the same cause of action. Nothing in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution or institution of civil penalty proceedings, libel proceedings, cease-and-desist order, for minor violations of this Act of the rules and regulations made and promulgated thereunder whenever he believes that the public interest will be adequately served by suitable written notice or warning. (7 U.S.C. 1602.)

Sec. 413. (a) In carrying on the work herein authorized, the Secretary of Agriculture, or any officer or employee designated by him for such purpose, shall have the power to hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, take dispositions, and require the production of books, records, accounts, memoranda, and papers, and have access to office and warehouse premises. Upon refusal by any person to appear, testify, or produce pertinent books, records, accounts, memoranda, and papers in response to a subpoena, or to permit access to premises, the proper United States district court shall have power to compel obedience thereto.

(b) Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States. (7 U.S.C. 1603.)

PUBLICATION

Sec. 414. After judgment by the court, or the issuance of a cease and desist order, in any case arising under this Act, notice thereof shall be given by publication in such manner as be prescribed in the rules and regulations made and promulgated under this Act. (7 U.S.C. 1604.)

AUTHORIZATION FOR APPROPRIATIONS

Sec. 415.¹⁹ (a) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this Act.

(b) Funds appropriated for carrying into effect the purpose of this Act shall be available for allotment by the Secretary of Agriculture to the bureaus and office of the Department of Agriculture and for transfer to other departments and agencies of the Government which the Secretary of Agriculture may call upon to assist or cooperate in carrying out such purposes of for services rendered or to be rendered in conjunction therewith.

Appropriations made under this authorization, within the limit prescribed in such appropriations, may be expended for the share of the United States in the expense of the International Seed Testing Congress in

¹⁷ Ibid.

¹⁸ Section as amended by Act of July 9, 1956, 70 Stat. 508.

¹⁹ Section as amended by Act of September 21, 1944, 58 Stat. 741.

carrying out plans for correlating the work of the various adhering governments of problems relating to seed analyses or other subjects which the Congress may determine to be necessary in the interest of international seed trade. (7 U.S.C. 1605.)

AUTHORIZATION FOR EXPENDITURES

Sec. 416. The Secretary of Agriculture is authorized to make such expenditures for rent, outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publication, furniture, stationery, office and laboratory equipment, travel and other supplies, including reporting services, such research necessary to develop methods of processing, bulking, blending, sampling, testing, and merchandising seeds necessary to the administration of this Act, and other necessary expenses in the District of Columbia and elsewhere, and as may be appropriate for by the Congress. (7 U.S.C. 1606.)

COOPERATION

Sec. 417. The Secretary of Agriculture is authorized to cooperate with any other department or agency of the Federal Government; or with any State, Territory, District, or possession, or department, agency, or political subdivision thereof; or with any producing, trading, or consuming organization, whether operating in one or more jurisdictions, in carrying out the provisions of this Act. (7 U.S.C. 1607.)

SEPARABILITY OF PROVISIONS

Sec. 418. If any provisions of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby. (7 U.S.C. 1608.)

REPEALS

Sec. 419. The Importation of Adulterated Seeds Act, approved August 24, 1912, as amended August 11, 1916, and as amended April 26, 1926 (7 U.S.C., 111-116, inclusive), is hereby repealed on the one hundred and eightieth day after the passage of this Act: Provided, however, That the notices with respect to imported alfalfa and red clover seed promulgated by the Secretary of Agriculture under the authority of the Importation of Adulterated Seeds Act, approved August 24, 1912, as amended & 7 U.S.C., 111-116, inclusive), and not in effect, shall remain with the same full force and effect as if promulgated under this Act. (7 U.S.C. 1609.)

EFFECTIVE DATE

Sec. 420. This Act shall take effect as follows: As to agricultural seeds, and the importation of vegetable seeds, on the one hundred and eightieth day after its enactment; as to vegetable seeds in interstate commerce, one year after its enactment; as to sections 401, 402, and 403, on the date of its enactment. (7 U.S.C. 1610.)

TITLE V--SALE OF UNCERTIFIED SEED OF PROTECTED VARIETY

Sec. 501.²⁰ It shall be unlawful in the United States or in interstate or foreign commerce to sell or offer for sale or advertise, by variety name, seed not certified by an official seed certifying agency, when it is a variety for which a certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed: Provided, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval, of the owners of the variety.

²⁰ Section 501 added by Pub. L. 91-577, 84 Stat. 1588, approved December 24, 1970; and amended by Pub. L. 97-98, 95 Stat. 1272, approved December 22, 1981.

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