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# COMPILATION OF STATUTES

#130

RELATING TO

Marketing Activities, Including Research,  
Service, and Regulatory Work

of the

AGRICULTURAL MARKETING SERVICE

UNITED STATES DEPARTMENT OF AGRICULTURE

AS OF JUNE 30, 1957

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Compiled Under the Direction of the General Counsel

AGRICULTURE HANDBOOK NO. 130

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## PART A

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(c) Provides for establishment, preparation, and distribution of official cotton standards.	
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(7 U.S.C. 1551-1609)

- (a) Prohibits transportation or delivery for transportation in interstate commerce of agricultural seeds unless each container bears a label giving information prescribed by regulations.
- (b) Requires all persons except carriers transporting or delivering for transportation agricultural seeds in interstate commerce to keep a complete record of origin, germination and purity of such seed for a period of three years.
- (c) Authorizes inspection of such records by the Secretary or his agents.
- (d) Makes unlawful false advertising by way of the U. S. mails, or in interstate commerce by any means.
- (e) Prohibits transportation of certain described seeds and prescribes procedures relating to importations.
- (f) Authorizes promulgation of rules and regulations by the Secretary and by the Secretary of the Treasury jointly or severally after notice and public hearing.
- (g) Prohibits alteration, defacement or destruction of labels and authorizes seizure and disposition by the U. S. Courts of seed in interstate or foreign commerce in violation of the provisions of the Act.
- (h) Provides criminal and civil penalties for violation of the Act but requires that notice and an opportunity to present his views be afforded persons against whom institution of a criminal or civil proceeding is contemplated before a violation is reported to a United States Attorney.
- (i) Provides for issuance of a cease and desist order against a violator after written complaint served upon him and opportunity to be heard upon specific charges.

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Packers and Stockyards Act, 1921 .....  
(7 U.S.C. 181-229)

- (a) Makes unlawful any unfair, unjustly discriminatory practice or device on the part of packers, live poultry dealers or handlers, operators of stockyards and commission men, as well as dealers at stockyards. It provides an administrative procedure to determine whether there has been a violation and the issuance of cease and desist orders in proper cases. Supplementary legislation added July 12, 1943 (Ch. 215 §1 57 Stat. 422), authorizes the Secretary to require reasonable bonds from registrants and to suspend registrations on account of insolvency or violation of the Act.
- (b) Excludes from the definition of "stockyard" such places when the area normally available for handling livestock is less than 20,000 square feet. It provides for determination by the Secretary as to which yards come within the definition and public notice thereof by posting copies of the notice in the stockyard and in such other manner as he may determine.
- (c) Prohibits persons engaging in the business of a market agency or dealer at "posted" stockyards unless he shall have registered with the Secretary under rules and regulations prescribed by the Secretary.
- (d) Requires that all rates and charges for stockyard services and rates and charges of licensees be just and reasonable and that printed schedules be filed with the Secretary and kept open to inspection at the stockyard or licensee's place of business showing all rates and charges for services furnished.
- (e) Authorizes the Secretary to determine and prescribe manner and form of preparation of schedules, change requirements from time to time, and reject or refuse to file any schedule for cause.
- (f) Establishes administrative procedure to determine lawfulness of rates and charges, regulations and practices and empowers Secretary to suspend operation of a schedule and after hearing make an appropriate order fixing rates.

(g) Creates liability in damages to persons injured by unreasonable, unjust or discriminatory practices on the part of stockyard operators, commission men or dealers and provides for administrative action to establish the injury and its extent, as well as an action in a U. S. district court.

(h) Authorizes the Secretary to designate cities where unfair, deceptive and fraudulent practices exist and, when such action shall have been taken, forbids all persons from dealing in or handling live poultry in or near such designated cities without a license.

(i) Directs the Secretary to issue licenses to applicants who comply with requirements of the regulations unless he finds, after opportunity for a hearing, that the applicant is unfit because of having engaged in a prohibited practice within the two years preceding his application or because the applicant is financially unable to fulfill the obligations which he would incur.

Wool Standards Act ..... 95

(7 U.S.C. 415b-d)

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(7 U.S.C. 91-99)

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Tobacco Inspection Act ..... 99

(7 U.S.C. 511-511q)

(a) Authorizes (i) the promulgation and establishment of Official U. S. Standard Grades, (ii) the designation of auction markets for free and mandatory inspection after approval by growers in a referendum, (iii) permissive inspection upon request of owners or other financially interested persons and the fixing and collection of fees for such inspection, and (iv) employing and licensing of persons as samplers to take official samples of tobacco or as weighers to weigh and certify the weight of tobacco or as inspectors to inspect tobacco.

(b) Directs warehousemen to provide space on tickets, tags or labels to show certified grades.

(c) Prohibits many practices designed to result in improper certification of tobacco.

Tobacco Plant and Seed Exportation Act ..... 105

(7 U.S.C. 516-517)

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#### WAREHOUSING AND TRANSPORTATION

United States Warehouse Act ..... 105

(7 U.S.C. 241-273)

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classification of warehouse in accordance with ownership, location, surroundings, etc., as to the kind of licenses issued or to be issued, (v) prescription of duties of warehousemen conducting licensed warehouses, (vi) issuance of licenses, upon application, for conduct of a warehouse in accordance with rules and regulations, (vii) suspension or revocation of licenses after opportunity for a hearing for failure to comply with requirements of the statute including unreasonable or exorbitant charges for services, (viii) issuance of licenses to inspect, classify or sample agricultural products stored in a licensed warehouse and certificate the grade, class, condition or weight thereof under prescribed regulations or rules, (ix) suspension or revocation of licenses issued to inspect, sample, classify or weigh after opportunity for a hearing, (x) modification or extension of existing licenses, (xi) examination of products stored in licensed warehouses, and (xii) examination of all books, papers, and accounts of licensed warehousemen.

(b) Requires each warehouseman to file a bond, issue prescribed receipts, make delivery without unnecessary delay upon proper demand, cancel receipts upon delivery of products covered thereby, keep prescribed books and records and conduct the warehouse in compliance with the statute and rules and regulations thereunder.

(c) Prohibits (i) issuance of further receipt with original outstanding, (ii) discrimination between persons desiring to use warehouse, (iii) mingling except fungibles, and (iv) designation of warehouse as bonded under Act until bond has been filed and accepted.

Agricultural Adjustment Act of 1938 ..... 114  
 (7 U.S.C. 1291)

(a) Authorizes complaints and prosecution of complaints before Interstate Commerce Commission with respect to rates, charges, tariffs and practices relating to the transportation of farm products.

(b) Requires the Commission to make the Secretary a party to the proceeding.

(c) Provides for cooperation between the Department and the Commission and the Department and cooperative associations of farmers.

NOTE: Somewhat broader authority in connection with transportation is found in the Agricultural Marketing Act of 1946 (Part A.—Research, Statistics, and Reports).

FEEs, REIMBURSEMENTS, AND RECORDS

Department of Agriculture Organic Act of 1944 ..... 114  
 (5 U.S.C. 571, 575; 7 U.S.C. 415e)

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Directs that authorized market inspection certificates be received in U. S. Courts as prima facie evidence of statements therein contained (5 U.S.C. 575).

Authorizes sale of samples, illustrations, practical forms or sets of grades under rules and regulations to be prescribed (7 U.S.C. 415e).

Cooperative Contributions .....  
 (5 U.S.C. 563-564a)

Requires that moneys contributed from outside sources involved in cooperative activities, except in the case of the Forest Service, shall be paid only through the Secretary or through State, county or municipal agencies, or local farm bureaus or like organizations, cooperating for the purpose with the Secretary (5 U.S.C. 563).

Exempts officials and employees of the Department engaged in cooperative activities from criminal provisions prohibiting payment or receipt of salaries of Government employees from any source other than the Government (18 U.S.C. 1914) under certain

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(5 U.S.C. 140)	
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(7 U.S.C. 601, 602, 608a–608e, 610–612, 614, 624, 671–673)	
NOTE: This legislation enacted June 3, 1937, in the form of an amendment of the Agricultural Adjustment Act of 1933, as amended, reenacted certain provisions of the old legislation without change and amended and reenacted others as amended. While not specifically reenacted the definition of “basic agricultural commodity” found in section 11 of the AAA of 1933 is applicable and appears as 611 in the text.	
(a) Provides for forfeiture equal to three times the current market value of the excess when any person willfully exceeds any quota or allotment fixed under this legislation.	
(b) Authorizes (i) marketing agreements with processors, producers, associations of producers and others engaged in the handling of a designated agricultural commodity, (ii) orders regulating handling of designated agricultural commodities or products in interstate commerce and (iii) fixing minimum prices to be paid to producers or associations of producers for milk or its products.	
(c) Prohibits importation of certain enumerated commodities when they are covered by a marketing order regulating grade, size, quality or maturity unless they comply with these provisions of the order.	
Agricultural Marketing Act of 1946	
(7 U.S.C. 1622 (h))	
(a) Authorizes grading, inspection, and certification of all agricultural products;	
(b) Makes certificates prima facie evidence; and	
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(A) Section 32 .....	139
Authorizes the use of funds each fiscal year in an amount equal to 30 per centum of the gross receipts from duties collected under the custom laws during the preceding calendar year. These funds may be used for the following purposes:	

(1) Agricultural Commodities:

(See 7 U.S.C. 612c)

- (a) Payment of benefits or indemnities for losses in connection with exportation;
- (b) Payments to producers in connection with the production required for domestic consumption in connection with exportation;
- (c) Payment of benefits or indemnities for diversion from the normal channels of trade or increasing utilization among persons in low-income groups;
- (d) Payments to farmers in connection with normal production.

(2) Fishery Products:

(See 15 U.S.C. 713c-2, 713c-3)

- (a) Purchase and distribution through Federal, State, and private relief channels of such products produced in the United States;
- (b) Transfer to the Secretary of the Interior for use by him to (i) conduct a fishery educational service and fishery technological, biological and related research programs and (ii) acquire, operate and maintain facilities for research directed to promotion of the free flow of domestically produced products in commerce;
- (c) Retransfer to the Secretary of Agriculture by the Secretary of the Interior a portion not in excess of \$1,500,000 to be used for the purpose stated in subparagraph (a) of this paragraph.

NOTE: While the Fish and Wildlife Act of August 8, 1956, ch. 1036, Sec. 6, 11, 12, 70 Stat. 1119, 16 U.S.C. 742a et seq., is not an amendment of or related to section 32 it does have a bearing upon it and, accordingly, pertinent sections are set out in the text of this compilation (page 142).

- (B) Act of June 28, 1937 ..... 141  
(formerly 15 U.S.C. 713c)

Authorized the Federal Surplus Commodities Corporation, the functions of which have been transferred to the Secretary, to (a) use section 32 funds for purchasing, exchanging, processing, distributing, disposing, storing and handling agricultural commodities and products thereof and inspection costs, commissions and other incidental expenses for the purpose of encouraging domestic consumption of agricultural commodities and diverting them from the normal channels of trade by donation for relief purposes. Funds may be so used without regard to the provisions of existing law governing the expenditure of public funds and for administrative expenses.

- (C) Agricultural Act of 1949 ..... 141  
(7 U.S.C. 1424)

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- (D) Agricultural Act of 1956 ..... 142  
(7 U.S.C. 1855)

Authorized the yearly appropriation of \$500,000,000 to enable the Secretary to further carry out the provisions of Section 32 subject to a 50-percent limitation to the use of the \$500,000,000 to any one agricultural commodity or the products thereof.

Price Support of Agricultural Commodities:

- Agricultural Act of 1949 ..... 143  
(7 U.S.C. 1421 et seq.)

(a) Authorizes and directs the Secretary to make available, through loans, purchases or other operations, price support (i) to cooperators for any crop of any basic agricultural commodity if producers have not disapproved marketing quotas for such crops, at a level not in excess of 90 per centum of parity nor less than levels prescribed in the legislation (7 U.S.C. 1441) and (ii) to

producers for tung nuts, honey, milk, butterfat and the products of milk and butterfat at levels prescribed in the legislation (7 U.S.C. 1446).

(b) Authorizes price supports to producers for any non-basic agricultural commodity not designated in paragraph ((a) (ii)) at levels not in excess of 90 per centum of the parity price nor less than levels prescribed in the legislation.

(c) Directs the Secretary to provide price support, authorized or required, through the Commodity Credit Corporation and other means available to him.

(d) Requires that the level of price support be determined upon the basis of its parity price as of the beginning of the marketing year or season in the case of any commodity marketed on a marketing year or season basis and as of January 1 in the case of any other commodity.

(e) Authorizes price support at a level in excess of the maximum when certain conditions are met.

(f) Authorizes the utilization of the services and facilities of the Commodity Credit Corporation and making advance payments to it in carrying out Section 32 programs.

(g) Authorizes Secretary to furnish feed for livestock or seeds for planting in connection with any major disaster and to utilize the personnel, facilities, property and funds of any agency of the Department for carrying out such functions and to reimburse the agencies for the value of the commodities and administration expense not paid for by the recipients.

(h) Authorizes Federal agencies to assist in connection with any major disaster by utilizing or lending to States and local government their facilities and personnel or donating surplus equipment and supplies.

#### Domestic Disposition of Surplus Commodities:

(A) Agricultural Act of 1949 ..... 153  
(7 U.S.C. 1431)

Authorizes use of commodities, acquired through price support operations of the Commodity Credit Corporation and which might otherwise be wasted, (a) to pay for commodities not produced in the United States acquired by governmental agencies, (b) for barter for strategic materials and (c) in the case of food commodities, donation to many enumerated charitable purposes.

(B) Agricultural Act of 1956 ..... 154  
(7 U.S.C. 1859)

Authorizes donations of surplus commodities acquired through price support operations to Federal penal and correctional institutions and to State correctional institutions for minors under certain circumstances.

National School Lunch Act ..... 155  
(42 U.S.C. 1751-1760)

Provides for assistance to States through grants-in-aid and other means in connection with the establishment, maintenance, operation and expansion of nonprofit school lunch programs.

Special School Milk Program ..... 159  
(7 U.S.C. 1446(c))

Authorizes the expenditure of certain amounts of the funds of the Commodity Credit Corporation to increase the consumption of fluid milk by children.

Agricultural Trade Development and Assistance Act of 1954 ..... 160  
(7 U.S.C. 1691-1724)

Authorizes (1) sale of defined surplus commodities in excess of the usual marketings through private trade channels in foreign trade and acceptance of foreign currencies in payment therefore (2) negotiation and effectuation of agreements with friendly nations, as defined, for sale of surplus commodities for foreign currencies, (3) emergency assistance on behalf of the peoples of the United States to friendly peoples in meeting famine or other urgent or extraordinary relief requirements, and (4) transfer on a grant basis of surplus commodities to assist programs undertaken with friendly governments or through relief agencies.

Commodity Set-Aside .....  
(7 U.S.C. 1741-1747)

Directs Commodity Credit Corporation to set aside certain quantities of agricultural commodities or products thereof, acquired from 1954 and prior years' crops and production in connection with its price support operations. This commodity set aside shall be reduced by disposal in accordance with directions of the President for various purposes set out in the statute. The President shall prescribe terms and conditions of disposals which he determines will safeguard against interference with normal marketings of the commodities outside the set aside.

PART D

MISCELLANEOUS

National Wool Act of 1954 ..... 169  
(Title VII of the Agricultural Act of 1954)  
(7 U.S.C. 1781-1787)

Provides for support of prices of wool and mohair by the Secretary through the Commodity Credit Corporation. The support may be by means of loans, purchases, payment or other operations in connection with wool and mohair marketed after April 1, 1955, and before March 31, 1959. The support is to be such level as the Secretary determines to be necessary to encourage production of domestic wool and mohair but not in excess of 110 percent of parity. Authorizes (a) agreements with or approval of agreements between marketing cooperatives, trade associations or others engaged in the handling of wool, mohair, sheep or goats or the product thereof for promotion purposes, (b) provision in the agreements described in (a) above for pro rata deduction from payments to producers and assignment and transfer of amounts deducted to the person or agency designated in the agreement for expenditure in accordance with the terms of the agreement.

Capper-Volstead Act ..... 172  
(7 U.S.C. 291, 292)

Authorizes persons engaged in the production of agricultural products to act together as associations in collectively processing, preparing for market and marketing, and make the necessary contracts and agreements to effect such purposes.

Prohibits monopolies and restraints of trade and provides an administrative procedure to establish the facts and an order directing the association to cease and desist.

Organic Act of 1944 ..... 174  
(7 U.S.C. 396)

Authorizes the inspections and examinations of livestock, hides, skins, meat or other animal products at places other than the headquarters of inspector upon request of the owner and charges for the expenses of travel and subsistence.

Oaths, Witnesses, and Records ..... 174  
(7 U.S.C. 420)

Authorizes certain employees in performance of duties to administer oaths, examine witnesses and call for the production of books and papers.

Agricultural Marketing Act of 1929 .....	174
(12 U.S.C. 1141j(d))	
Prohibits inclusion in any Government report, bulletin, or other such publication of any prediction with respect to cotton prices.	
Excerpts from Appropriation Act of 1957 .....	175
(70 Stat. 229)	
(a) Prohibits use of funds for expense incident to ascertaining, collating, or publishing a report stating intention of farmers as to acreage to be planted in cotton or for estimates of apple production for other than the commercial crop.	
(b) Makes at least \$1,500,000 available for contracting in accordance with specified statutes.	
(c) Makes funds for research and service work available for expenses of duly established advisory committees.	
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(70 Stat. 1034)	
Authorizes use of funds for payment of transportation expenses and per diem of persons appointed for temporary or seasonal services in inspection, etc., of agricultural commodities.	
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## **PART A**

### **RESEARCH, STATISTICS, AND REPORTS**

#### **The Organic Act of the Department of Agriculture**

(5 U.S.C. 511)

##### **§ 511. Establishment of Department.**

There shall be at the seat of government a Department of Agriculture, the general design and duties of which shall be to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture, in the most general and comprehensive sense of that word, and to procure, propagate, and distribute among the people new and valuable seeds and plants. (R. S. § 520.)

##### **Bankhead-Jones Act**

(Excerpt from Bankhead-Jones Act 7 U.S.C. 427)

##### **§ 427. Agriculture research; declaration of policy; duties of Secretary of Agriculture; use of existing facilities.**

It is declared to be the policy of the Congress to promote the efficient production and utilization of products of the soil as essential to the health and welfare of our people and to promote a sound and prosperous agriculture and rural life as indispensable to the maintenance of maximum employment and national prosperity. It is also the intent of Congress to assure agriculture a position in research equal to that of industry which will aid in maintaining an equitable balance between agriculture and other sections of our economy. For the attainment of these objectives, the Secretary of Agriculture is authorized and directed to conduct and to stimulate research into the laws and principles underlying the basic problems of agriculture in its broadest aspects, including but not limited to: Research relating to the improvement of the quality of, and the development of new and improved methods of the production, marketing, distribution, processing, and utilization of plant and animal commodities at all stages from the original producer through to the ultimate consumer; research into the problems of human nutrition and the nutritive value of agricultural commodities with particular reference to their content of vitamins, minerals, amino and fatty acids, and all other constituents that may be found necessary for the health of the consumer and to the gains or losses in nutritive value that may take place at any stage in their production, distribution, processing, and preparation for use by the consumer; research relating to the development of present, new, and extended uses and markets for agricultural

commodities and by-products as food or in commerce, manufacture, or trade, both at home and abroad, with particular reference to those foods and fibers for which our capacity to produce exceeds or may exceed existing economic demand; research to encourage the discovery, introduction, and breeding of new and useful agricultural crops, plants, and animals, both foreign and native, particularly for those crops and plants which may be adapted to utilization in chemical and manufacturing industries; research relating to new and more profitable uses for our resources of agricultural manpower, soils, plants, animals, and equipment than those to which they are now, or may after August 14, 1946, be devoted; research relating to the conservation, development, and use of land, forest, and water resources for agricultural purposes; research relating to the design, development, and the more efficient and satisfactory use of farm buildings, farm homes, farm machinery, including the application of electricity and other forms of power; research relating to the diversification of farm enterprises, both as to the type of commodities produced, and as to the types of operations performed, on the individual farm; research relating to any other laws and principles that may contribute to the establishment and maintenance of a permanent and effective agricultural industry including such investigations as have for their purpose the development and improvement of the rural home and rural life, and the maximum contribution by agriculture to the welfare of the consumer and the maintenance of maximum employment and national prosperity; and such other researches or experiments bearing on the agricultural industry or on rural homes of the United States as may in each case be deemed advisable, having due regard to the varying conditions and needs of Puerto Rico, the respective States and Territories. In effectuating the purposes of this section, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. Research authorized under this section shall be in addition to research provided for under existing law (but both activities shall be coordinated so far as practicable). (June 29, 1935, ch. 338, § 1, 49 Stat. 436; Aug. 14, 1946, ch. 966 title I, § 101, 60 Stat. 1082.)

### **Parity Determination**

(Excerpt from Agricultural Adjustment Act of 1938, 7 U.S.C. 1301(a))

#### **§ 1301. (a) General definitions.**

For the purposes of this title and the declaration of policy—

(1) (A) The “parity price” for any agricultural commodity, as of any date, shall be determined by multiplying the adjusted base price of such commodity as of such date by the parity index as of such date.

(B) The “adjusted base price” of any agricultural commodity, as of any date, shall be (i) the average of the prices received by farmers for such commodity, at such times as the Secretary may select during each year of the ten-year period ending on the 31st of December last before such date, or during each marketing season beginning in such period if the Secretary determines use of a calendar year basis to be impracticable, divided by (ii) the ratio

of the general level of prices received by farmers for agricultural commodities during such period to the general level of prices received by farmers for agricultural commodities during the period January 1910 to December 1914, inclusive. As used in this subparagraph, the term "prices" shall include wartime subsidy payments made to producers under programs designed to maintain maximum prices established under the Emergency Price Control Act of 1942.

(C) The "parity index," as of any date, shall be the ratio of (i) the general level of prices for articles and services that farmers buy, wages paid hired farm labor, interest on farm indebtedness secured by farm real estate, and taxes on farm real estate, for the calendar month ending last before such date to (ii) the general level of such prices, wages, rates, and taxes during the period January 1910 to December 1914, inclusive.

(D) The prices and indices provided for herein, and the data used in computing them, shall be determined by the Secretary, whose determination shall be final.

(E) Notwithstanding the provisions of subparagraph (A), the transitional parity prices for any agricultural commodity, computed as provided in this subparagraph, shall be used as the parity price for such commodity until such date after January 1, 1950, as such transitional parity price may be lower than the parity price, computed as provided in subparagraph (A), for such commodity. The transitional parity price for any agricultural commodity as of any date shall be—

(i) its parity price determined in the manner used prior to the effective date of the Agricultural Act of 1948, less

(ii) 5 per centum of the parity price so determined multiplied by the number of full calendar years (not counting 1956 in the case of basic agricultural commodities) which, as of such date, have elapsed after January 1, 1949, in the case of nonbasic agricultural commodities, and after January 1, 1955, in the case of the basic agricultural commodities.

(F) Notwithstanding the provisions of subparagraphs (A) and (E), if the parity price for any agricultural commodity, computed as provided in subparagraphs (A) and (E) appears to be seriously out of line with the parity prices of other agricultural commodities, the Secretary may, and upon the request of a substantial number of interested producers shall, hold public hearings to determine the proper relationship between the parity price of such commodity and the parity prices of other agricultural commodities. Within sixty days after commencing such hearing the Secretary shall complete such hearing, proclaim his findings as to whether the facts require a revision of the method of computing the parity price of such commodity, and put into effect any revision so found to be required.

(G) Notwithstanding the foregoing provisions of this section, the parity price for any basic agricultural commodity, as of any date during the six-year period beginning January 1, 1950, shall not be less than its parity price computed in the manner used prior to October 31, 1949.

(2) "Parity," as applied to income, shall be that gross income from agriculture which will provide the farm operator and his family with a standard of living equivalent to those afforded per-

sons dependent upon other gainful occupation. "Parity" as applied to income from any agricultural commodity for any year, shall be that gross income which bears the same relationship to parity income from agriculture for such year as the average gross income from such commodity for the preceding ten calendar years bears to the average gross income from agriculture for such ten calendar years.

(3) The term "interstate and foreign commerce" means sale, marketing, trade, and traffic between any State or Territory or the District of Columbia or Puerto Rico, and any place outside thereof; or between points within the same State or Territory or within the District of Columbia or Puerto Rico, through any place outside thereof; or within any Territory or within the District of Columbia or Puerto Rico.

(4) The term "affect interstate and foreign commerce" means, among other things, such commerce, or to burden or obstruct such commerce or the free and orderly flow thereof; or to create or tend to create a surplus of any agricultural commodity which burdens or obstructs such commerce or the free and orderly flow thereof.

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

(6) The term "State" includes a Territory and the District of Columbia and Puerto Rico.

(7) The term "Secretary" means the Secretary of Agriculture, and the term "Department" means the Department of Agriculture.

(8) The term "person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State.

(9) The term "corn" means field corn. (*See also* Sections 602 and 608e of the Agricultural Marketing Agreement Act of 1937—Part B.)

### **Monthly Crop Report**

(7 U.S.C. 411a)

#### **§ 411a. Monthly crop report; contents issuance; approval by Secretary of Agriculture.**

The monthly crop report, which shall be gathered as far as practicable from practical farmers, shall be printed and distributed on or before the twelfth day of each month, and shall embrace statements of the conditions of crops by States, in the United States, with such explanations, comparisons, and information as may be useful for illustrating the above matter, and it shall be submitted to and officially approved by the Secretary of Agriculture before being issued or published. (Mar. 4, 1909, ch. 301, 35 Stat. 1053; Mar. 4, 1917, ch. 179, 39 Stat. 1157.)

### **Turpentine and Rosin Statistics**

(5 U.S.C. 556b)

#### **§ 556b. Statistics relating to turpentine and rosin.**

The Secretary of Agriculture is authorized and directed to collect and/or compile and publish annually, and at such other times, and in such form and on such date or dates as he shall prescribe, statistics and essential information relating to spirits

of turpentine and rosin produced, held, and used in the domestic and foreign commerce of the United States. (Aug. 15, 1935, ch. 548, 49 Stat. 653.)

### **Cotton Statistics and Estimates**

(7 U.S.C. 471-476)  
(13 U.S.C. 71, 72, 75, 76)

#### **§ 471. Statistics and estimates of grades and staple length of cotton; collection and publication.**

The Secretary of Agriculture is authorized and directed to collect and publish annually, on dates to be announced by him, statistics or estimates concerning the grades and staple length of stocks of cotton, known as the carryover, on hand on the 1st of August of each year in warehouses and other establishments of every character in the continental United States; and following such publication each year, to publish, at intervals in his discretion, his estimate of the grades and staple length of cotton of the then current crop: *Provided*, That not less than three such estimates shall be published with respect to each crop. In any such statistics or estimates published, the cotton which on the date for which such statistics are published may be recognized as tenderable on contracts of sale of cotton for future delivery under chapter 14 of Title 26, shall be stated separately from that which may be untenderable under said act. (Mar. 3, 1927, ch. 337, § 1, 44 Stat. 1372.)

#### **§ 472. Information furnished of confidential character; penalty for divulging information.**

The information furnished by any individual establishment under the provisions of this chapter shall be considered as strictly confidential and shall be used only for the statistical purpose for which it is supplied. Any employee of the Department of Agriculture who, without the written authority of the Secretary of Agriculture, shall publish or communicate any information given into his possession by reason of his employment under the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than \$300 or more than \$1,000, or imprisoned for a period of not exceeding one year, or both so fined and imprisoned, at the discretion of the court. (Mar. 3, 1927, ch. 337, § 2, 44 Stat. 1373.)

#### **§ 473. Persons required to furnish information; request; failure to furnish; false information.**

It shall be the duty of every owner, president, treasurer, secretary, director, or other officer or agent of any cotton warehouse, cotton ginnery, cotton mill, or other place or establishment where cotton is stored, whether conducted as a corporation, firm, limited partnership, or individual, and of any owner or holder of any cotton and of the agents and representatives of any such owner or holder, when requested by the Secretary of Agriculture or by any special agent or other employee of the Department of Agriculture acting under the instructions of said Secretary to furnish completely and correctly, to the best of his knowledge, all of the information concerning the grades and staple length of cotton

on hand, and when requested to permit such agent or employee of the Department of Agriculture to examine and classify samples of all such cotton on hand. The request of the Secretary of Agriculture for such information may be made in writing or by a visiting representative, and if made in writing shall be forwarded by registered mail, and the registry receipt of the Post Office Department shall be accepted as evidence of such demand. Any owner, president, treasurer, secretary, director, or other officer or agent of any cotton warehouse, cotton ginnery, cotton mill, or other place or establishment where cotton is stored, or any owner or holder of any cotton or the agent or representative of any such owner or holder, who, under the conditions hereinbefore stated, shall refuse or willfully neglect to furnish any information herein provided for or shall willfully give answers that are false or shall refuse to allow agents or employees of the Department of Agriculture to examine or classify any cotton in store in any such establishment, or in the hands of any owner or holder or of the agent or representative of any such owner or holder, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 or more than \$1,000. (Mar. 3, 1927, ch. 337, § 3, 44 Stat. 1373.)

**§ 473a. Classification of cotton on request of producer.**

The Secretary of Agriculture, upon request in writing from any group of producers organized to promote the improvement of cotton who comply with such regulations as he may prescribe, is authorized and directed to determine and to make promptly available to such producers, the classification, in accordance with the official cotton standards of the United States, of any cotton produced by them. The Secretary of Agriculture is further authorized to pay the transportation charges and to furnish tags and containers for the samples of cotton submitted for classification under this section, and all samples of cotton so classified shall become the property of the Government, and the proceeds of any sales thereof after classification shall be covered into the Treasury of the United States as miscellaneous receipts. (Mar. 3, 1927, ch. 337, § 3a, as added, April 13, 1937, ch. 75, 50 Stat. 62.)

**§ 473b. Market supply, demand, condition and prices; collection and publication of information.**

The Secretary of Agriculture is also authorized and directed to collect, authenticate, publish, and distribute, by telegraph, radio, mail, or otherwise, timely information on the market supply, demand, location, condition, and market prices for cotton, and to cause to be prepared regularly and distributed for posting at gins, in post offices, or other public or conspicuous places in cotton-growing communities, information on prices for the various grades and staple lengths of cotton. (Mar. 3, 1927, ch. 337, § 3b, as added April 13, 1937, ch. 75, 50 Stat. 62.)

**§ 473c. Rules and regulations.**

The Secretary of Agriculture is further authorized to make such rules and regulations as he may deem necessary to effectuate the purposes of this chapter. (Mar. 3, 1927, ch. 337, § 3c, as added April 13, 1937, ch. 75, 50 Stat. 62.)

**§ 473d. Quality tests and analyses by Secretary for breeders and others; fees.**

The Secretary of Agriculture is authorized to make analyses of fiber properties, spinning tests, and other tests of the quality of cotton samples submitted to him by cotton breeders and other persons, subject to such terms and conditions and to the payment by such cotton breeders and other persons of such fees as he may prescribe by regulations under this chapter. The fees to be assessed hereunder shall be reasonable, and, as nearly as may be, to cover the cost of the service rendered. (Mar. 3, 1927, ch. 337, § 3d, as added Apr. 7, 1941, ch. 42, 55 Stat. 131.)

**§ 474. Powers of Secretary of Agriculture; appropriation.**

The Secretary of Agriculture may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for the purchase of samples of cotton, for rent outside the District of Columbia, printing, telegrams, telephones, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia, and elsewhere, and there are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes. (Mar. 3, 1927, ch. 337, § 4, 44 Stat. 1373.)

**§ 475. Cotton crop reports.**

The Secretary of Agriculture shall discontinue making his reports based upon farmers' intention to plant cotton and shall cause to be issued after August 8, 1946, only five reports, one as of August 1, one as of September 1, one as of October 1, one as of November 1, and one as of December 1, each of which shall state the condition and progress of the crop and the probable number of bales which will be ginned, these reports to be issued simultaneously with the cotton ginning reports of the Bureau of the Census relating to the same dates, the two reports to be issued from the same place at eleven o'clock antemeridian of the eighth day following that to which the respective reports relate. When such date of release falls on Sunday, a legal holiday, or other day which pursuant to statute or executive order is a nonworkday in the Department of Agriculture generally, the report shall be issued at eleven o'clock antemeridian of the next succeeding workday. No such report shall be approved and released by the Secretary of Agriculture until it shall have been passed upon by a cotton-crop reporting committee or board consisting of five members or more to be designated by him, not less than three of which shall be supervisory field statisticians of the Department of Agriculture located in different sections of the cotton-growing States, experienced in estimating cotton production and who shall have first-hand knowledge of the conditions of the cotton crop based upon recent field observations, and the majority of which committee or

board shall be familiar with the methods and practices of producing cotton. (May 3, 1924, ch. 149, § 1, 43 Stat. 115; Mar. 3, 1927, ch. 337, § 5, 44 Stat. 1373; Aug. 8, 1946, ch. 909, 60 Stat. 940.)

#### § 476. Acreage reports.

The Secretary of Agriculture shall cause to be issued a report on or before the 10th day of July of each year showing by States and in toto the number of acres of cotton in cultivation on July 1, to be followed on September 1 and December 1 with an estimate of the acreage of cotton abandoned since July 1. (May 27, 1912, ch. 135, § 1, 37 Stat. 118; Mar. 3, 1927, ch. 337, § 6, 44 Stat. 1374.)

(13 U.S.C. 71, 72, 75, 76)

#### § 71. Collection and publication.

The Director of the Census is authorized and directed to collect and publish statistics concerning the amount of cotton ginned; the quantity of raw cotton consumed in manufacturing establishments of every character; the quantity of baled cotton on hand; the number of active consuming cotton spindles; the number of active spindle hours, and the quantity of cotton imported and exported, with the country of origin and destination. (Apr. 2, 1924, ch. 80, § 1, 43 Stat. 31; June 18, 1929, ch. 28, § 21, 46 Stat. 26.)

#### § 72. Contents and distribution of reports; publication by Department of Agriculture.

The statistics of the quantity of cotton ginned shall show the quantity ginned from each crop prior to August 1, August 16, September 1, September 16, October 1, October 18, November 1, November 14, December 1, December 13, January 16, and March 1: *Provided*, That the Director of the Census may limit the canvasses of August 1 and August 16, to those sections of the cotton-growing States in which cotton has been ginned. The quantity of cotton consumed in manufacturing establishments, the quantity of baled cotton on hand, the number of active consuming cotton spindles, the number of active spindle hours, and the statistics of cotton imported and exported shall relate to each month, and shall be published as soon as possible after the close of the month.

The Director of the Census shall furnish to the Department of Agriculture, immediately prior to the publication of each report of that department regarding the cotton crop, the latest available statistics hereinbefore mentioned, and the said Department of Agriculture shall publish the same in connection with each of its reports concerning cotton. (Apr. 2, 1924, ch. 80, § 2, 43 Stat. 31; June 18, 1929, ch. 28, § 21, 46 Stat. 26; June 28, 1949, ch. 256, § 1, 63 Stat. 278.)

#### § 75. Foreign cotton statistics.

In addition to the information regarding cotton in the United States provided for in sections 71, 72, and 74, the Director of the Census shall compile, by correspondence or the use of published reports and documents, any available information concerning the

production, consumption, and stocks of cotton in foreign countries, and the number of cotton-consuming spindles in such countries. Each report published by the Bureau of the Census regarding cotton shall contain an abstract of the latest available information obtained under the provisions of this section, and the Director of the Census shall furnish the same to the Department of Agriculture for publication in connection with the reports of that department concerning cotton in the same manner as in the case of statistics relating to the United States. (Apr. 2, 1924, ch. 80, § 5, 43 Stat. 32; June 18, 1929, ch. 28, § 21, 46 Stat. 26.)

#### **§ 76. Simultaneous publication of cotton reports.**

The reports of cotton ginned to the dates as of which the Department of Agriculture is also required to issue cotton crop reports shall be issued simultaneously with the cotton crop reports of that department, the two reports to be issued from the same place at eleven o'clock antemeridian on the eighth day following that on which the respective reports relate. When such date of release falls on Sunday or a legal holiday or other day which pursuant to statute or Executive order is a non-work day in the Department of Commerce at Washington generally the reports shall be issued at eleven o'clock antemeridian of the next succeeding workday. (Apr. 2, 1924, ch. 80, § 6, 43 Stat. 32; June 18, 1929, ch. 28, § 21, 46 Stat. 26; June 28, 1949, ch. 256, § 2, 63 Stat. 278.)

### **Peanut Statistics**

(7 U.S.C. 951-957) [Amended by Public Law 85-105, approved July 17, 1957.]

#### **§ 951. Collection and publication; facts required; submission of report.**

The Secretary of Agriculture is authorized and directed to collect and publish statistics of raw peanuts, shelled, unshelled, and crushed, and peanut oil, in the United States, received, processed, shipped, and owned by or in the possession of warehousemen, brokers, cleaners, shellers, dealers, growers' cooperative associations, crushers, salters, manufacturers of peanut products, and owners other than the original producers of peanuts: *Provided*, That the Secretary may, in his discretion, omit for any period of time to collect such statistics from any or all salters of peanuts or manufacturers of peanut products who used, during the calendar year preceding that for which statistics are being collected, less than thirty thousand pounds of shelled and unshelled peanuts. Such statistics shall show the quality of peanuts in such details as to kinds—Virginias, Runners, Spanish, and imported varieties—as the Secretary shall deem necessary for the purposes of this chapter. All reports except those required from persons owning or operating peanut picking or threshing machines shall be submitted monthly in each year. (June 24, 1936, ch. 745, § 1, 49 Stat. 1898; May 12, 1938, ch. 199, § 1, 52 Stat. 348.)

#### **§ 952. Same; quantity picked or threshed.**

The Secretary is authorized and directed to collect and publish statistics of the quantity of peanuts picked or threshed by any person owning or operating peanut picking or threshing machines.

(June 24, 1936, ch. 745, § 2, 49 Stat. 1899; May 12, 1938, ch. 199, § 2, 52 Stat. 349.)

**§ 953. Reports; necessity; by whom made; penalties.**

It shall be the duty of every warehouseman, broker, cleaner, sheller, dealer, growers' cooperative association, crusher, salter, manufacturer of peanut products, and owner or operator of peanut picking or threshing machines to furnish promptly upon request of the Secretary, within the time prescribed by him, completely and correctly to the best of his knowledge, a report of the quantity of peanuts and peanut oil received, processed, shipped, and owned by or on hand and in the case of an operator of peanut picking and threshing machines the quantity picked or threshed, segregating in accordance with forms furnished for the purpose by the Secretary. Any person required by this chapter, or the regulations promulgated thereunder, to furnish reports or information, and any officer, agent, or employee thereof who shall refuse or willfully give answers that are false and misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$300 nor more than \$1,000 or imprisoned not more than one year, or be subjected to both such fine and imprisonment. (June 24, 1936, ch. 745, § 3, 49 Stat. 1899; May 12, 1938, ch. 199, § 3, 52 Stat. 349.)

**§ 954. Grades and standards for classification.**

The Secretary is hereby authorized to establish and promulgate grades and standards for the classification of peanuts, whenever in his discretion he may see fit. (June 24, 1936, ch. 745, § 4, 49 Stat. 1899.)

**§ 955. Limitation on use of statistical information.**

The information furnished under the provisions of this chapter shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Secretary whereby the data furnished by any person can be identified, nor shall the Secretary permit anyone other than the sworn employees of the Department of Agriculture to examine the individual reports. (June 24, 1936, ch. 745, § 5, 49 Stat. 1899.)

**§ 956. Rules and regulations; cooperation with departments, etc.; officers and employees; expenses of administration; appropriation.**

The Secretary may make rules and regulations as may be necessary in the administration of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress, and

there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose. (June 24, 1936, ch. 745, § 6, 49 Stat. 1899.)

### § 957. Definitions.

(1) The term "person" includes individuals, partnerships, corporations, and associations;

(2) The term "Secretary" means the Secretary of Agriculture. (June 24, 1936, ch. 745, § 7, 49 Stat. 1899.)

## Tobacco Statistics

(7 U.S.C. 501-508)

### § 501. Collection and publication; facts required; deteriorated tobacco.

The Secretary of Agriculture is authorized and directed to collect and publish statistics of the quantity of leaf tobacco in all forms in the United States and Puerto Rico, owned by or in the possession of dealers, manufacturers, quasi-manufacturers, growers' cooperative associations, warehousemen, brokers, holders, or owners, other than the original growers of tobacco. The statistics shall show the quantity of tobacco in such detail as to types, groups of grades, and such other subdivisions as to quality, color, and/or grade for particular types, as the Secretary of Agriculture shall deem to be practical and necessary for the purposes of this section and sections 502-508 of this title, shall be summarized as of January 1, April 1, July 1, and October 1 of each year, and an annual report on tobacco statistics shall be issued: *Provided*, That the Secretary of Agriculture shall not be required to collect statistics of leaf tobacco from any manufacturer of tobacco who, in the first three quarters of the preceding calendar year, according to the returns of the Commissioner of Internal Revenue or the record of the Treasurer of Puerto Rico, manufactured less than thirty-five thousand pounds of tobacco, or from any manufacturer of cigars who, during the first three quarters of the preceding calendar year, manufactured less than one hundred and eighty-five thousand cigars, or from any manufacturer of cigarettes who, during the first three quarters of the preceding year, manufactured less than seven hundred and fifty thousand cigarettes: *And provided further*, That the Secretary of Agriculture may omit the collection of statistics from any dealer, manufacturer, growers' cooperative association, warehouseman, broker, holder, or owner who does not own and/or have in stock, in the aggregate, fifty thousand pounds or more of leaf tobacco on the date as of which the reports are made. For the purposes of this section and sections 502-508 of this title, any tobacco which has deteriorated on account of age or other causes to the extent that it is not merchantable or is unsuitable for use in manufacturing tobacco products shall be classified with other nondescript tobacco and reported in the "N" group of the type to which it belongs. (Jan. 14, 1929, ch. 69, § 1, 45 Stat. 1079; July 14, 1932, ch. 480, § 1, 47 Stat. 662; Aug. 27, 1935, ch. 749, § 1, 49 Stat. 893. May 17, 1932, ch. 190, 47 Stat. 158).

### **§ 502. Standards for classification; returns and blanks.**

The Secretary of Agriculture shall establish standards for the classification of leaf tobacco, and he is authorized to demonstrate such standards, to prepare and distribute samples thereof, and to make reasonable charges therefor. He shall specify the types, groups of grades, qualities, colors, and/or grades, which shall be included in the returns required by sections 501-508 of this title. The Secretary of Agriculture shall prepare appropriate blanks upon which the returns shall be made, shall, upon request, furnish copies to persons who are required by sections 501-508 of this title to make returns, and such returns shall show the types, groups of grades, qualities, color, and/or grades and such other information as the Secretary may require. (Jan. 14, 1929, ch. 69, § 2, 45 Stat. 1079; Aug. 27, 1935, ch. 749, § 2, 49 Stat. 894.)

### **§ 503. Reports; necessity; by whom made; penalties.**

It shall be the duty of every dealer, manufacturer, quasi-manufacturer, growers' cooperative association, warehouseman, broker, holder, or owner, other than the original grower, except such persons as are excluded by the proviso to section 501 of this title, to furnish within fifteen days after January 1, April 1, July 1, and October 1 of each year, completely and correctly, to the best of his knowledge, a report of the quantity of leaf tobacco on hand, segregated in accordance with the blanks furnished by the Secretary of Agriculture. Any person, firm, association, or corporation required by sections 501-508 of this title to furnish a report, and any officer, agent, or employee thereof who shall refuse or willfully neglect to furnish any of the information required by sections 501-508 of this title, or shall willfully give answers that are false or misleading, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$300 or more than \$1,000, or imprisoned not more than one year, or both. (Jan. 14, 1929, ch. 69, § 3, 45 Stat. 1080; July 14, 1932, ch. 480, § 2, 47 Stat. 663.)

### **§ 504 Definition of "person."**

The word "person" as used in sections 501-508 of this title shall be held to embrace also any partnerships, corporation, association, or other legal entity. (Jan. 14, 1929, ch. 69, § 4, 45 Stat. 1080.)

### **§ 505. Access to internal revenue records.**

The Secretary of Agriculture shall have access to the tobacco records of the Commissioner of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining lists of the persons subject to sections 501-508 of this title and for the purpose of aiding the collection of the information required by sections 501-508 of this title, and the Commissioner of Internal Revenue and the several collectors of internal revenue shall cooperate with the Secretary of Agriculture in effectuating the provisions of sections 501-508 of this title. (Jan. 14, 1929, ch. 69; § 5, 45 Stat. 1080; Aug. 27, 1935, ch. 749, § 3, 49 Stat. 894.)

### **§ 506. Returns under oath; administration.**

The returns provided for in sections 501-508 of this title shall

be made under oath before a collector or deputy collector of internal revenue, a postmaster, assistant postmaster, or anyone authorized to administer oaths by State or Federal law. (Jan. 14, 1929, ch. 69, § 6, 45 Stat. 1080.)

#### **§ 507. Limitation on use of statistical information.**

The information furnished under the provisions of sections 501–508 of this title shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Secretary of Agriculture whereby the data furnished by any particular establishment can be identified, nor shall the Secretary of Agriculture permit anyone other than the sworn employees of the Department of Agriculture to examine the individual reports. (Jan. 14, 1929, ch. 69, § 7, 45 Stat. 1080.)

#### **§ 508. Invalidity of provisions in sections 501–507; validity of remaining provisions.**

If any provision of sections 501–507 of this title is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of said sections and the applicability of such provisions to other persons and circumstances shall not be affected thereby. (Jan. 14, 1929, ch. 69, § 9, 45 Stat. 1080.)

### **Agricultural Marketing Act of 1946**

(7 U.S.C. 1621–1627)

#### **§ 1621. Congressional declaration of purpose; use of existing facilities; cooperation with States.**

The Congress declares that a sound, efficient, and privately operated system for distributing and marketing agricultural products is essential to a prosperous agriculture and is indispensable to the maintenance of full employment and to the welfare, prosperity, and health of the Nation. It is further declared to be the policy of Congress to promote through research, study, experimentation, and through cooperation among Federal and State agencies, farm organizations, and private industry a scientific approach to the problems of marketing, transportation, and distribution of agricultural products similar to the scientific methods which have been utilized so successfully during the past eighty-four years in connection with the production of agricultural products so that such products capable of being produced in abundance may be marketed in an orderly manner and efficiently distributed. In order to attain these objectives, it is the intent of Congress to provide for (1) continuous research to improve the marketing, handling, storage, processing, transportation, and distribution of agricultural products; (2) cooperation among Federal and State agencies, producers, industry organizations, and others in the development and effectuation of research and marketing programs to improve the distribution processes; (3) an integrated administration of all laws enacted by Congress to aid the distribution of agricultural products through research, market aids and services, and regulatory activities, to the end that marketing methods and facilities may be improved, that distribution costs may be

reduced and the price spread between the producer and consumer may be narrowed, that dietary and nutritional standards may be improved, that new and wider markets for American agricultural products may be developed, both in the United States and in other countries, with a view to making it possible for the full production of American farms to be disposed of usefully, economically, profitably, and in an orderly manner. In effectuating the purposes of this chapter, maximum use shall be made of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State extension services. To the maximum extent practicable marketing research work done under this chapter in cooperation with the States shall be done in cooperation with the State agricultural experiment stations; marketing educational and demonstrational work done under this chapter in cooperation with the States shall be done in cooperation with the State agricultural extension service; market information, inspection, regulatory work and other marketing service done under this chapter in cooperation with the State agencies shall be done in cooperation with the State departments of agriculture, and State bureaus and departments of markets. (Aug. 14, 1946, ch. 966, Title II, § 202, 60 Stat. 1087.)

#### § 1622. Duties of Secretary relating to agricultural products.

The Secretary of Agriculture is directed and authorized—

(a) DETERMINATION OF METHODS OF PROCESSING, PACKAGING, MARKETING, ETC.; PUBLICATION OF RESULTS.—To conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market, packaging, handling, transporting, storing, distributing, and marketing agricultural products: *Provided*, That the results of such research shall be made available to the public for the purpose of expanding the use of American agricultural products in such manner as the Secretary of Agriculture may determine.

(b) DETERMINATION OF COSTS.—To determine costs of marketing agricultural products in their various forms and through the various channels and to foster and assist in the development and establishment of more efficient marketing methods (including analyses of methods and proposed methods), practices, and facilities, for the purpose of bringing about more efficient and orderly marketing, and reducing the price spread between the producer and the consumer.

(c) IMPROVEMENT OF STANDARDS OF QUALITY, CONDITIONS, ETC.—To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.

(d) ELIMINATION OF ARTIFICIAL BARRIERS TO FREE MOVEMENT.—To conduct, assist, foster, and direct studies and informational programs designed to eliminate artificial barriers to the free movement of agricultural products.

(e) DEVELOPMENT OF NEW MARKETS.—To foster and assist in the development of new or expanded markets (domestic and foreign) and new and expanded uses and in the moving of larger

quantities of agricultural products through the private marketing system to consumers in the United States and abroad.

(f) INCREASING CONSUMER EDUCATION.—To conduct and cooperate in consumer education for the more effective utilization and greater consumption of agricultural products: *Provided*, That no money appropriated under the authority of this chapter shall be used to pay for newspaper or periodical advertising space or radio time in carrying out the purposes of this section and subsection (e) of this section.

(g) COLLECTION AND DISSEMINATION OF MARKETING INFORMATION.—To collect and disseminate marketing information, including adequate outlook information on a market-area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and bringing about a balance between production and utilization of agricultural products.

(h) INSPECTION AND CERTIFICATION OF PRODUCTS IN INTERSTATE COMMERCE; CERTIFICATES AS EVIDENCE.—To inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire, except that no person shall be required to use the service authorized by this subsection. Any official certificate issued under the authority of this subsection shall be received by all officers and all courts of the United States as prima facie evidence of the truth of the statements therein contained.

Whoever knowingly shall falsely make, issue, alter, forge, or counterfeit any official certificate, memorandum, mark, or other identification, or device for making such mark or identification, with respect to inspection, class, grade, quality, size, quantity, or condition, issued or authorized under this section or knowingly cause or procure, or aid, assist in, or be a party to, such false making, issuing, altering, forging, or counterfeiting, or whoever knowingly shall possess, without promptly notifying the Secretary of Agriculture or his representative, utter, publish, or use as true, or cause to be uttered, published, or used as true, any such falsely made, altered, forged, or counterfeited official certificate, memorandum, mark, identification, or device, or whoever knowingly represents that an agricultural product has been officially inspected or graded (by an authorized inspector or grader) under the authority of this section when such commodity has in fact not been so graded or inspected shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(i) DEVELOPMENT OF FACILITIES FOR ASSEMBLING, PROCESSING, TRANSPORTING, ETC.—To determine the needs and develop or assist in the development of plans for efficient facilities and methods of operating such facilities for the proper assembly, processing, transportation, storage, distribution, and handling of agricultural products.

(j) IMPROVEMENT OF TRANSPORTATION FACILITIES AND RATES.—

To assist in improving transportation services and facilities and in obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies by making complaint or petition to the Interstate Commerce Commission, the Maritime Commission, the Civil Aeronautics Board, or other Federal or State transportation regulatory body with respect to rates, charges, tariffs, practices, and services, or by working directly with individual carriers or groups of carriers.

(k) **COLLECTION AND DISSEMINATION OF MARKETING STATISTICS.**—To collect, tabulate, and disseminate statistics on marketing agricultural products, including, but not restricted to statistics on market supplies, storage stocks, quantity, quality, and condition of such products in various positions in the marketing channel, utilization of such products, and shipments and unloads thereof.

(l) **DEVELOPMENT OF PROCUREMENT STANDARDS AND SPECIFICATIONS.**—To develop and promulgate, for the use and at the request of any Federal agency or State, procurement standards and specifications for agricultural products, and submit such standards and specifications to such agency or State for use or adoption for procurement purposes.

(m) **PROMOTION OF RESEARCH FOR HANDLING, STORING, PRESERVING, ETC.**—To conduct, assist, encourage, and promote research, investigation, and experimentation to determine the most efficient and practical means, methods, and processes for the handling, storing, preserving, protecting, processing, and distributing of agricultural commodities to the end that such commodities may be marketed in an orderly maner and to the best interest of the producers thereof.

(n) **GENERAL RESEARCH, SERVICES, AND ACTIVITIES.**—To conduct such other research and services and to perform such other activities as will facilitate the marketing, distribution, processing, and utilization of agricultural products through commercial channels. (Aug. 14, 1946, ch. 966, Title II, § 203, 60 Stat. 1087; Aug. 9, 1955, ch. 632, § 1, 69 Stat. 553.)

### **§ 1623. Appropriations; allotments to States.**

(a) In order to conduct research and service work in connection with the preparation for market, processing, packaging, handling, storing, transporting, distributing, and marketing of agricultural products as authorized by this chapter, there is authorized to be appropriated the following sums:

(1) \$2,500,000 for the fiscal year ending June 30, 1947, and each subsequent fiscal year.

(2) An additional \$2,500,000 for the fiscal year ending June 30, 1948, and each subsequent fiscal year.

(3) An additional \$5,000,000 for the fiscal year ending June 30, 1949, and each subsequent fiscal year.

(4) An additional \$5,000,000 for the fiscal year ending June 30, 1950, and each subsequent fiscal year.

(5) An additional \$5,000,000 for the fiscal year ending June 30, 1951, and each subsequent fiscal year.

(6) In addition to the foregoing, such additional funds beginning with the fiscal year ending June 30, 1952, and thereafter, as the Congress may deem necessary.

Such sums appropriated in pursuance of this chapter shall be in addition to, and not in substitution for, sums appropriated or otherwise made available to the Department of Agriculture.

(b) The Secretary of Agriculture is authorized to make available from such funds such sums as he may deem appropriate for allotment to State departments of agriculture, State bureaus and departments of markets, State agricultural experiment stations, and other appropriate State agencies for cooperative projects in marketing service and in marketing research to effectuate the purposes of this chapter: *Provided*, That no such allotment and no payment under any such allotment shall be made for any fiscal year to any State agency in excess of the amount which such State agency makes available out of its own funds for such research. The funds which State agencies are required to make available in order to qualify for such an allotment shall be in addition to any funds now available to such agencies for marketing services and for marketing research. The allotments authorized under this section shall be made to the agency or agencies best equipped and qualified to conduct the specific project to be undertaken. Such allotments shall be covered by cooperative agreements between the Secretary of Agriculture and the cooperating agency and shall include appropriate provisions for preventing duplication or overlapping of work within the State or States cooperating. Should duplication or overlapping occur subsequent to approval of a cooperative project or allotment of funds, the Secretary of Agriculture is authorized and directed to withhold unexpended balances on such projects notwithstanding the prior approval thereof. (Aug. 14, 1946, ch. 966, Title II, § 204, 60 Stat. 1089.)

**§ 1624. Cooperation with Government and State agencies, private research organizations, etc.; rules and regulations; report to Congress.**

(a) In carrying out the provisions of this chapter, the Secretary of Agriculture may cooperate with other branches of the Government, State agencies, private research organizations, purchasing and consuming organizations, boards of trade, chambers of commerce, other associations of business or trade organizations, transportation and storage agencies and organizations, or other persons or corporations engaged in the production, transportation, storing, processing, marketing, and distribution of agricultural products whether operating in one or more jurisdictions. The Secretary of Agriculture shall have authority to enter into contracts and agreements under the terms of regulations promulgated by him with States and agencies of States, private firms, institutions, and individuals for the purpose of conducting research and service work, making and compiling reports and surveys, and carrying out other functions relating thereto when in his judgment the services or functions to be performed will be carried out more effectively, more rapidly, or at less cost than if performed by the Department of Agriculture. Contracts under this section may be made for work to be performed within a period not more than four years from the date of any such contract, and advance, progress, or other payments may be made. The provisions of section 529 of Title 31 and section 5 of Title 41 shall not be applicable to contracts or agreements made under the authority of this sec-

tion. Any unexpended balances of appropriations obligated by contracts as authorized by this section may, notwithstanding the provisions of section 713 of Title 31, remain upon the books of the Treasury for not more than five fiscal years before being carried to the surplus fund and covered into the Treasury. Any contract made pursuant to this section shall contain requirements making the result of such research and investigations available to the public by such means as the Secretary of Agriculture shall determine.

(b) The Secretary of Agriculture shall promulgate such orders, rules, and regulations as he deems necessary to carry out the provisions of this chapter. (Aug. 14, 1946, ch. 966, Title II, § 205, 60 Stat. 1090; Aug. 30, 1954, ch. 1076, § 1 (7), 68 Stat. 966.)

#### **§ 1625. Transfer and consolidation of functions, powers, bureaus, etc.**

In order to facilitate administration and to increase the effectiveness of the marketing research, service, and regulatory work of the Department of Agriculture to the fullest extent practicable, the Secretary of Agriculture is authorized, notwithstanding any other provisions of law, to transfer, group, coordinate, and consolidate the functions, powers, duties, and authorities of each and every agency, division, bureau, service, section, or other administrative unit in the Department of Agriculture primarily concerned with research, service, or regulatory activities in connection with the marketing, transportation, storage, processing, distribution of, or service or regulatory activities in connection with, the utilization of, agricultural products, into a single administrative agency. In making such changes as may be necessary to carry out effectively the purpose of this chapter, the records, property, personnel, and funds of such agencies, divisions, bureaus, services, sections, or other administrative units in the Department of Agriculture affected are authorized to be transferred to and used by such administrative agency to which the transfer may be made, but such unexpended balances of appropriations so transferred shall be used only for the purposes for which such appropriations were made. (Aug. 14, 1946, ch. 966, Title II, § 206, 60 Stat. 1090.)

#### **§ 1626. Definitions.**

When used in this chapter, the term "agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof. (Aug. 14, 1946, ch. 966, Title II, § 207, 60 Stat. 1091.)

#### **§ 1627. Appointment of personnel; compensation; employment of specialists.**

The Secretary of Agriculture shall have the power to appoint, remove, and fix, in accordance with existing law, the compensation of such officers and employees, and to make such expenditures as he deems necessary, including expenditures for rent outside the District of Columbia, travel, supplies, books, equipment, and such other expenditures as may be necessary to the administration

of this chapter: *Provided*, That the Secretary of Agriculture may appoint and fix the compensation of any technically qualified person, firm, or organization by contract or otherwise on a temporary basis and for a term not to exceed six months in any fiscal year to perform research, inspection, classification, technical, or other special services, without regard to the civil-service laws or sections 661-663, 664-669, 670-672, 673 and 674 of Title 5. (Aug. 14, 1946, ch. 966, Title II, § 208, 60 Stat. 1091.)

## **PART B**

### **SERVICE AND REGULATORY**

#### **Cotton**

#### **United States Cotton Standards Act**

(7 U.S.C. 51-65)

#### **§ 51. Short title of chapter.**

This chapter shall be known by the short title of "United States Cotton Standards Act." (Mar. 4, 1923, ch. 288, § 1, 42 Stat. 1517.)

#### **§ 51a. Extension of classification facilities to cotton growers.**

The Secretary of Agriculture is requested to extend to cotton growers facilities for the classification of cotton authorized in this chapter, with such supervision of licensed classifiers as he shall deem necessary under authority of chapter 14 of Title 26. (Mar. 4, 1933, ch. 284, § 1, 47 Stat. 1621.)

#### **§ 51b. Licensing samplers; revocation and suspension of license.**

Further to carry out the purposes of this chapter the Secretary of Agriculture is authorized to issue to any qualified person, upon presentation of satisfactory evidence of competency, a license to sample cotton. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied that such licensee is incompetent or has knowingly or carelessly sampled cotton improperly, or has violated any provision of this chapter or the regulations thereunder so far as the same may relate to him, or has used his license, or allowed it to be used, for any improper purpose. The Secretary of Agriculture may prescribe by regulation the conditions under which licenses may be issued under this section, and may require any licensed sampler to give bond for the faithful performance of his duties and for the protection of persons affected thereby and may prescribe the conditions under which cotton shall be sampled by licensed samplers for the purpose of classification by officers of the Department of

Agriculture, or by licensed cotton classifiers: (Mar. 4, 1933, ch. 284, § 2, 47 Stat. 1621.)

**§ 52. Use of nonofficial standards prohibited; sales by sample excepted.**

It shall be unlawful (a) in or in connection with any transaction or shipment in commerce made after August 1, 1923, or (b) in any publication of a price or quotation determined in or in connection with any transaction or shipment in commerce after August 1, 1923, or (c) in any classification for the purposes of or in connection with a transaction or shipment in commerce after August 1, 1923, for any person to indicate for any cotton a grade or other class which is of or within the official cotton standards of the United States then in effect under this chapter by a name, description, or designation, or any system of names, description, or designation not used in said standards: *Provided*, That nothing in this section shall prevent a transaction otherwise lawful by actual sample or on the basis of a private type which is used in good faith and not in evasion of or substitution for said standards. (Mar. 4, 1923, ch. 288, § 2, 42 Stat. 1517.)

**§ 53. Licensing classifiers; revocation and suspension of license.**

The Secretary of Agriculture may, upon presentation of satisfactory evidence of competency, issue to any person a license to grade or otherwise classify cotton and to certificate the grade or other class thereof in accordance with the official cotton standards of the United States. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied, after reasonable opportunity afforded to the licensee for a hearing, that such licensee is incompetent or has knowingly or carelessly classified cotton improperly, or has violated any provision of this chapter or the regulations thereunder so far as the same may relate to him, or has used his license or allowed it to be used for any improper purpose. Pending investigation the Secretary of Agriculture, whenever he deems necessary, may suspend a license temporarily without a hearing. (Mar. 4, 1923, ch. 288, § 3, 42 Stat. 1517.)

**§ 54. Classification by Department of Agriculture; certification thereof; effect of certificate; regulations for classification.**

Any person who has custody of or a financial interest in any cotton may submit the same or samples thereof, drawn in accordance with the regulations of the Secretary of Agriculture, to such officer or officers of the Department of Agriculture as may be designated for the purpose pursuant to the regulations of the Secretary of Agriculture for a determination of the true classification of such cotton or samples, including the comparison thereof, if requested, with types or other samples submitted for the purpose. The final certificate of the Department of Agriculture showing such determination shall be binding on officers of the United States and shall be accepted in the courts of the United States as prima facie evidence of the true classification or comparison of such cotton or samples when involved in any transaction or shipment in commerce. The Secretary of Agriculture shall fix rules and regulations for submitting samples of cotton for classi-

fication providing that all samples shall be numbered so that no one interested in the transaction involved shall be known by any classifier engaged in the classification of such cotton samples. (Mar. 4, 1923, ch. 288, § 4, 42 Stat. 1517).

**§ 55. Charges for licenses and classifications; disposition of moneys.**

The Secretary of Agriculture may cause to be collected such charges as he may find to be reasonable for licenses issued to classifiers of cotton under section 53 of this title and for determinations made under section 54 of this title, and the amounts so collected shall be used by the Secretary of Agriculture in paying expenses of the Department of Agriculture connected therewith. (Mar. 4, 1923, ch. 288, § 5, 42 Stat. 1518.)

**§ 56. Establishment of cotton standards; furnishing copies of established standards sold.**

The Secretary of Agriculture is authorized to establish from time to time standards for the classification of cotton by which its quality or value may be judged or determined for commercial purposes, which shall be known as the official cotton standards of the United States. Any such standard or change or replacement thereof shall become effective only on and after a date specified in the order of the Secretary of Agriculture establishing the same, which date shall be not less than one year after the date of such order: *Provided*, That the official cotton standards established, effective August 1, 1923, under the United States Cotton Futures Act, constituting chapter 14 of Title 26, shall be at the same time the official cotton standards for the purpose of this chapter unless and until changed or replaced under this chapter. Whenever any standard or change or replacement thereof shall become effective under this chapter, it shall also, when so specified in the order of the Secretary of Agriculture, become effective for the purposes of the United States Cotton Futures Act, constituting chapter 14 of Title 26, and supersede any inconsistent standard established under said chapter. Whenever the official cotton standards of the United States established under this chapter shall be represented by practical forms, the Department of Agriculture shall furnish copies thereof, upon request, to any person, and the cost thereof, as determined by the Secretary of Agriculture, shall be paid by the person making the request. The Secretary of Agriculture may cause such copies to be certified under the seal of the Department of Agriculture, and may attach such conditions to the purchase and use thereof, including provision for the inspection, condemnation, and exchange thereof by duly authorizing representatives of the Department of Agriculture, as he may find to be necessary to the proper application of the official cotton standards of the United States. (Mar. 4, 1923, ch. 288, § 6, 42 Stat. 1518 renumbered 6(a) Sept. 21, 1944, ch. 412, § 401 (b) 58 Stat. 738.)

**§57. Disposition of proceeds of sale of cotton and of copies of standards.**

Any moneys received from or in connection with the sale of

cotton purchased for the preparation of the copies, mentioned in section 56 of this title and condemned as unsuitable for such use or with the sale of such copies may be expended for the purchase of other cotton for such use. (Mar. 4, 1923, ch. 288, § 6, 42 Stat. 1518; renumbered § 6 (a) Sept. 21, 1944, chap. 412, § 401 (b) 58 Stat. 738.)

#### **§ 57a. Agreements with cotton associations, etc., in foreign countries to establish cotton standards.**

The Secretary of Agriculture is authorized to effectuate agreements with cotton associations, cotton exchanges, and other cotton organizations in foreign countries, for (1) the adoption, use, and observance of universal standards of cotton classification, (2) the arbitration or settlement of disputes with respect thereto, and (3) the preparation, distribution, inspection, and protection of the practical forms or copies thereof under such agreements. (Mar. 4, 1923, ch. 288, § 6 (b), as added Sept. 21, 1944, ch. 412, title IV, § 401 (b), 58 Stat. 738.)

#### **§ 58. General inspection and sampling of cotton.**

In order to carry out the provisions of this chapter, the Secretary of Agriculture is authorized to cause the inspection, including the sampling, of any cotton involved in any transaction or shipment in commerce, wherever such cotton may be found, or of any cotton with respect to which a determination of the true classification is requested under section 54 of this title. (Mar. 4, 1923, ch. 288, § 7, 42 Stat. 1518.)

#### **§ 59. Offenses in relation to cotton standards.**

It shall be unlawful for any person (a) with intent to deceive or defraud, to make, receive, use, or have in his possession any simulate or counterfeit practical form or copy of any standard or part thereof established under this chapter; or (b) without the written authority of the Secretary of Agriculture, to make, alter, tamper with, or in any respect change any practical form or copy of any standard established under this chapter; or (c) to display or use any such practical form or copy after the Secretary of Agriculture shall have caused it to be condemned. (Mar. 4, 1923, ch. 288, § 8, 42 Stat. 1519.)

#### **§ 60. Penalties for violations.**

(a) Any person who shall knowingly violate any provision of sections 52 or 59 of this title, or (b) any person licensed under this chapter who, for the purposes of or in connection with any transaction or shipment in commerce, shall knowingly classify cotton improperly, or shall knowingly falsify or forge any certificate of classification, or shall accept money or other consideration, either directly or indirectly, for any neglect or improper performance of duty as such licensee, or (c) any person who shall knowingly influence improperly or attempt to influence improperly any person licensed under this chapter in the performance of his duties as such licensee relating to any transaction or shipment in commerce, or (d) any person who shall forcibly assault, resist, impede, or interfere with or influence improperly or attempt to

influence improperly any person employed under this chapter in the performance of his duties, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be fined not exceeding \$1,000, or imprisoned not exceeding six months, or both, in the discretion of the court. (Mar. 4, 1923, ch. 288, § 9, 42 Stat. 1519.)

**§ 61. General regulations, investigations, tests, etc., by Secretary.**

For the purposes of this chapter the Secretary of Agriculture shall cause to be promulgated such regulations, may cause such investigations, tests, demonstrations, and publications to be made, including the investigation and determination of some practical method whereby repeated and unnecessary sampling and classification of cotton may be avoided, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency or political subdivision thereof, or any person, as he shall find to be necessary. (Mar. 4, 1923, ch. 288, § 10, 42 Stat. 1519.)

**§ 62. Definitions; "person"; "commerce"; "cotton."**

Wherever used in this chapter, (a) the word "person" imports the plural or the singular, as the case demands, and includes an individual, a partnership, a corporation, or two or more persons having a joint or common interest; (b) the word "commerce" means commerce between any State or the District of Columbia and any place outside thereof, or between points within the same State or the District of Columbia but through any place outside thereof, or within the District of Columbia; and (c) the word "cotton" means cotton of any variety produced within the continental United States, including linters. (Mar. 4, 1923, ch. 288, § 11, 42 Stat. 1519.)

**§ 63. Liability of principal for act of agent.**

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any person within the scope of his employment or office, shall in every case be deemed also the act, omission, or failure of such person as well as that of such agent, officer, or other person. (Mar. 4, 1923, ch. 288, § 11, 42 Stat. 1519.)

**§ 64. Appropriation for expenses; appointments by Secretary of officers and agents; compensation.**

There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the provisions of this chapter; and the Secretary of Agriculture is authorized, within the limits of such appropriations, to appoint, remove, and fix the compensations of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere. (Mar. 4, 1923, ch. 288, § 12, 42 Stat. 1519.)

## **§ 65. Effect of partial invalidity.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby. (Mar. 4, 1923, ch. 288, § 13, 42 Stat. 1520.)

### **Cooperative Cotton Classers**

(7 U.S.C. 51a-1)

#### **§ 51a-1. Contracts with cooperatives furnishing classers; amount and type of payment.**

Hereafter the Secretary may contract with cooperatives furnishing classers and other facilities for classing cotton and may pay for such services in amount, some part of which may be in kind, not in excess of the value of the samples. (July 5, 1952, ch. 574, title I, § 101, 66 Stat. 349.)

### **Cotton Futures Act**

(26 U.S.C. 4851-4854, 4861-4865, 4871-4877, 6001, 6804, 7233, 7263, 7492, 7493, 7701(a)(1), (11), (12))

#### **§ 4851. Imposition of tax.**

##### **(a) RATE.**

Upon each contract of sale of any cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business, there shall be imposed a tax in the nature of an excise of 2 cents for each pound of the cotton involved in any such contract.

##### **(b) BY WHOM PAID.**

The tax imposed by subsection (a) shall be paid by the seller of the cotton involved in the contract of sale. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 580.)

#### **§ 4852. Definition.**

For the purpose of this subchapter, the term "contract of sale" shall be held to include sales, agreements of sale, and agreements to sell. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 580.)

#### **§ 4853. Form and validity of contracts.**

##### **(a) FORM.**

Each contract of sale of cotton for future delivery mentioned in section 4851 (a) shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. If the contract or memorandum specify in bales the quantity of the cotton involved, without giving the weight, each bale shall, for the purpose of this subchapter, be deemed to weigh 500 pounds.

##### **(b) VALIDITY.**

No contract of sale of cotton for future delivery mentioned in section 4851 (a), which does not conform to the requirements

of subsection (a) of this section and has not the necessary stamps affixed thereto as required by section 4871, shall be enforceable in any court of the United States by, or on behalf of, any party to such contract or his privies. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 580.)

#### § 4854. Cotton standards.

##### (a) SOURCE AND DESCRIPTION.

Subject to the provisions of section 6 of the Act of March 4, 1923 (42 Stat. 1518; 7 U. S. C. 56), the Secretary of Agriculture is authorized from time to time, to establish and promulgate standards of cotton by which its quality or value may be judged or determined, including its grade, length of staple, strength of staple, color, and such other qualities, properties, and conditions as may be standardized in practical form, which, for the purpose of this subchapter, shall be known as the "Official cotton standards of the United States": *Provided*, That any standard of any cotton established and promulgated under this subchapter by the Secretary of Agriculture shall not be changed or replaced within a period less than one year from and after the date of the promulgation thereof by the Secretary of Agriculture: *Provided further*, That no change or replacement of any standard of any cotton established and promulgated under this subchapter by the Secretary of Agriculture shall become effective until after one year's public notice thereof, which notice shall specify the date when same is to become effective.

##### (b) PRACTICAL FORMS.

(1) Preparation, certification, and distribution. The Secretary of Agriculture is authorized and directed to prepare practical forms of the official cotton standards which shall be established by him, and to furnish such practical forms from time to time, upon request, to any person, the cost thereof, as determined by the Secretary of Agriculture, to be paid by the person requesting the same, and to certify such practical forms under the seal of the Department of Agriculture and under the signature of the said Secretary, thereto, affixed by himself or by some official or employee of the Department of Agriculture thereunto duly authorized by the said Secretary.

(2) Disposition of receipts from sales. All sums collected by the Secretary of Agriculture for furnishing practical forms under paragraph (1) shall be deposited and covered into the Treasury as miscellaneous receipts. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 580.)

#### § 4861. Spot cotton.

This subchapter shall not be construed to impose a tax on any sale of spot cotton. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 581.)

#### § 4862. Definition of bona fide spot markets.

##### (a) DEFINITION.

For the purpose of this subchapter, the only markets which shall be considered bona fide spot markets shall be those which the Secretary of Agriculture shall, from time to time, after inves-

tigation, determine and designate to be such, and of which he shall give public notice.

(b) DETERMINATION.

In determining, pursuant to the provisions of this subchapter, what markets are bona fide spot markets, the Secretary of Agriculture is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary of Agriculture: *Provided*, That if there be not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary of Agriculture, to enable him to designate at least five spot markets in accordance with section 4863 (c), he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the markets selected and designated by him, from time to time, for that purpose, and in that event differences in value of cotton of various grades involved in contracts made pursuant to section 4863 (a) and (b) shall be determined in compliance with such rules and regulations: *Provided further*, That it shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary of Agriculture or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide prices offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 581.)

§ 4863. Basis grade contracts.

(a) CONDITIONS.

No tax shall be imposed under this subchapter on any contract of sale mentioned in section 4851 (a) if the contract comply with each of the following conditions:

(1) Conformity with section 4853 (a) and regulations. Conform to the requirements in section 4853 (a) and the rules and regulations made pursuant to this subchapter.

(2) Specification of grade, price, and dates of sale and settlement. Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary of Agriculture, except grades prohibited from being delivered on a contract made under this section by the fifth paragraph of this subsection, the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled: *Provided*, That middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(3) Provision for delivery of standard grades only. Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary of Agriculture except grades prohibited from being delivered on a contract made under this section by paragraph (5) and no other grade or grades.

(4) Provision for settlement on basis of actual commercial differences. Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

(5) Prohibition of delivery of inferior cotton. Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple, or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed," shall not be delivered on, under, or in settlement of such contract.

(6) Provisions for tender in full, notice of delivery date, and certificate of grade. Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(7) Provision for tender and settlement in accordance with government classification. Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary of Agriculture by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, collected, and paid as provided in such regulations. All moneys collected as such costs may be used as a revolving fund for carrying out the purposes of this paragraph. The Secretary of Agriculture is authorized to prescribe regulations for carrying out the purposes of this paragraph, and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this paragraph shall be accepted in the courts of the United States in all suits between the

parties to such contract, or their privies, as prima facie evidence of the true classification of the cotton involved.

(b) INCORPORATION OF CONDITIONS IN CONTRACTS.

The provision of subsection (a) (3), (4), (5), (6), and (7) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memoranda evidencing the same, at or prior to the time the same is signed, the phrase "Subject to Internal Revenue Code, section 4863."

(c) DELIVERY ALLOWANCES.

For the purpose of this section, the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basis grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with subsection (a) (6), for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary of Agriculture, as such values were established by the sales of spot cotton, in such designated five or more markets: *Provided*, That for the purpose of this subsection such values in the said spot markets be based upon the standards for grades of cotton established by the Secretary of Agriculture: *And provided further*, That whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary of Agriculture. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 582.)

**§ 4864. Tendered grade contracts.**

(a) CONDITIONS.

No tax shall be imposed under this subchapter on any contract of sale mentioned in section 4851 (a) if the contract—

(1) Compliance with section 4863. Comply with all the terms and conditions of section 4863 not inconsistent with this section; and

(2) Provision for contingent specific performance. Provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(b) INCORPORATION OF CONDITIONS IN CONTRACT.

Contracts made in compliance with this section shall be known as "Section 4864 Contracts." The provisions of this section shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to Internal Revenue Code, section 4864."

(c) APPLICATION OF SECTION.

Nothing in this section shall be so construed as to relieve from the tax imposed by section 4851 (a) any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any "fixed difference" system, or by arbitration, or by any other method not provided for by this subchapter. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 584.)

**§ 4865. Specific grade contracts.**

(a) CONDITIONS.

No tax shall be imposed under this subchapter on any contract of sale mentioned in section 4851 (a) if the contract comply with each of the following conditions:

(1) Conformity with rules and regulations. Conform to the rules and regulations made pursuant to this subchapter.

(2) Specification of grade, price, dates of sale and delivery.

Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(3) Prohibition of delivery of other than specified grade. Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(4) Provision for specific performance. Provide that the delivery of cotton under the contract shall not be effected by means of "set-off" or "ring" settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(b) INCORPORATION OF CONDITIONS IN CONTRACT.

The provisions of subsection (a) (1), (3), and (4) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words "Subject to Internal Revenue Code, section 4865."

(c) APPLICATION OF SECTIONS.

This section shall not be construed to apply to any contract of sale made in compliance with section 4863 or 4864. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 584.)

**§ 4871. Method of payment.**

The tax imposed by section 4851 (a) shall be paid by means of stamps which shall be affixed to such contracts, or to the memoranda evidencing the same, and canceled in compliance with rules and regulations which shall be prescribed by the Secretary or his delegate. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 585.)

## **§ 4872. Collection and enforcement.**

### **(a) RULES AND REGULATIONS.**

The Secretary or his delegate is authorized to make and promulgate such rules and regulations as he may deem necessary to collect the tax imposed by this subchapter and otherwise to enforce its provisions.

### **(b) RECORDS AND RETURNS.**

Further to effect the purpose of subsection (a), the Secretary or his delegate shall require all persons coming within its provisions to keep such records and statements of account, and may require such persons to make such returns verified under oath or otherwise, as will fully and correctly disclose all transactions mentioned in section 4851 (a), including the making, execution, and fulfillment thereof; he may require all persons who act in the capacity of a clearing house, clearing association, or similar institution for the purpose of clearing, settling, or adjusting transactions mentioned in section 4851 (a) to keep such records and to make such returns as will fully and correctly disclose all facts in their possession relating to such transactions.

### **(c) EMPLOYMENT OF OFFICERS AND EMPLOYEES.**

The Secretary or his delegate may appoint officers and employees to conduct the inspection necessary to collect said tax and otherwise to enforce this subchapter and all rules and regulations made by him in pursuance hereof. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 585.)

## **§ 4873. Liability of principal for acts of agent.**

When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 586.)

## **§ 4874. Immunity of witnesses.**

No person whose evidence is deemed material by the officer prosecuting on behalf of the United States in any case brought under any provision of this subchapter shall withhold his testimony because of complicity by him in any violation of this subchapter or of any regulation made pursuant to this subchapter, but any such person called by such officer who testifies in such case shall be exempt from prosecution for any offense to which his testimony relates. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 586.)

## **§ 4875. Operation of State laws.**

The payment of any tax imposed by this subchapter shall not exempt any person from any penalty or punishment now or hereafter provided by the laws of any State for entering into contracts of sale of cotton for future delivery, nor shall the payment of any tax imposed by this subchapter be held to prohibit any State

or municipality from imposing a tax on the same transaction. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 586.)

**§ 4876. Reports of Secretary of Agriculture.**

The Secretary of Agriculture is directed to publish from time to time the results of investigations made in pursuance of this subchapter. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 586.)

**§ 4877. Cross references.**

For penalties and other general and administrative provisions applicable to this subchapter, see subtitle F. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 586.)

**§ 6001. Notice or regulations requiring records, statements, and special returns.**

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe. Whenever in the judgment of the Secretary or his delegate it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary or his delegate deems sufficient to show whether or not such person is liable for tax under this title. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 731.)

**§ 6804. Attachment and cancellation.**

Except as otherwise expressly provided in this title, the stamps referred to in section 6801 shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as the Secretary or his delegate may prescribe by rules or regulations. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 830.)

**§ 7233. Failure to pay, or attempt to evade payment of, tax on cotton futures, and other violations.**

Any person—

(1) Nonpayment or evasion of tax. Liable to the payment of any tax imposed by subchapter D of chapter 39, who fails to pay, or evades, or attempts to evade the payment of such tax; and

(2) Other violations. Who otherwise violates any provision of subchapter D of chapter 39, or any rule or regulation made in pursuance thereof; shall, upon conviction thereof, be fined not less than \$100 nor more than \$20,000, in the discretion of the court; and, in case of natural persons, may, in addition, be punished by imprisonment for not less than 60 days nor more than 3 years, in the discretion of the court. (Aug. 16, 1954; 9:45 a.m., E. D. T., ch. 736, 68A Stat. 858.)

**§ 7263. Penalties relating to cotton futures.**

(a) WITHHOLDING INFORMATION.

Any person engaged in the business of dealing in cotton who

shall, within a reasonable time prescribed by the Secretary of Agriculture or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under section 4862 (b), or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than \$500.

**(b) CIVIL PENALTIES.**

In addition to the criminal penalties provided by section 7233, there shall be imposed, on account of each violation of subchapter D of chapter 39, relating to cotton futures, a penalty of \$2,000, to be recovered in a civil action founded on subchapter D of chapter 39 in the name of the United States as plaintiff, and when so recovered one-half of said amount shall be paid over to the person giving the information upon which such recovery was based. It shall be the duty of United States attorneys, to whom satisfactory evidence of violations of subchapter D of chapter 39 is furnished, to institute and prosecute actions for the recovery of the penalties prescribed by this subsection. (Aug. 16, 1954, 9:45 a.m., E. D. T., ch. 736, 68A Stat. 862.)

**§ 7492. Enforceability of cotton futures contracts.**

No contract of sale of cotton for future delivery mentioned in section 4851 (a), which does not conform to the requirements of section 4853 and has not the necessary stamps affixed thereto as required by section 4871, shall be enforceable in any court of the United States by, or on behalf of, any party to such contract or his privies. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 893.)

**§ 7493. Immunity of witnesses in cases relating to cotton futures.**

No person whose evidence is deemed material by the officer prosecuting on behalf of the United States in any case brought under any provision of subchapter D of chapter 39 (relating to cotton futures) shall withhold his testimony because of complicity by him in any violation of subchapter D of chapter 39, or of any regulation made pursuant to such chapter, but any such person called by such officer who testifies in such case shall be exempt from prosecution for any offense to which his testimony relates. (Aug. 16, 1954, 9:45 a. m., E. D. T., ch. 736, 68A Stat. 893.)

**§ 7701. Definitions.**

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(11) Secretary. The term "Secretary" means the Secretary of the Treasury.

(12) Delegate. The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform the function mentioned or described in the context, and the term "or his delegate" when used in connection with any other official of the United States shall be similarly construed.

## **Fruits and Vegetables**

### **Produce Agency Act**

(7 U.S.C. 491, 493-497)

#### **§ 491. Destruction or dumping of farm produce received in interstate commerce by commission merchants, etc., prohibited; penalty.**

After June 30, 1927, any person, firm, association, or corporation receiving any fruits, vegetables, melons, dairy, or poultry products or any perishable farm products of any kind or character, referred to in this section and section 492 of this title as produce, in interstate commerce, or in the District of Columbia, for or on behalf of another, who without good and sufficient cause therefor, shall destroy or abandon, discard as refuse, or dump any produce directly or indirectly, or through collusion with any person, or who shall knowingly and with intent to defraud make any false report or statement to the person, firm, association, or corporation from whom any produce was received, concerning the handling, condition, quality, quantity, sale, or disposition thereof, or who shall knowingly and with intent to defraud fail truly and correctly to account therefor shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 and not more than \$3,000, or by imprisonment for a period of not exceeding one year, or both, at the discretion of the court. (Mar. 3, 1927, ch. 309, § 1, 44 Stat. 1355.)

#### **§ 492. (repealed by Public Law 272, 84th Cong.)**

#### **§ 493. Enforcement of provisions; prosecution of cases.**

The Secretary of Agriculture is hereby authorized and directed to enforce this chapter. It is hereby made the duty of all United States attorneys to prosecute cases arising under this chapter, subject to the supervision and control of the Department of Justice. (Mar. 3, 1927, ch. 309, § 2, 44 Stat. 1355.)

#### **§ 494. Rules and regulations; cooperation with States, etc., officers and employees; expenditures.**

The Secretary of Agriculture may make such rules and regulations as he may deem advisable to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and may call upon any Federal department, board, or commission for assistance in carrying out the purposes of this chapter; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law and make such expenditure for rent, outside the District of Columbia, printing, telegrams, telephones, books of reference, books of law, periodicals, newspapers, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be deemed necessary to the administration of this chapter in the District of Columbia and elsewhere. (Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

### § 495. Appropriation.

There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary after the fiscal year beginning July 1, 1927, to carry out the purposes of this chapter. (Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

### § 496. Validity of other statutes dealing with same subject.

This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter, but it is intended that all such statutes shall remain in full force and effect, except insofar only as they are inconsistent herewith or repugnant hereto. (Mar. 3, 1927, ch. 309, § 3, 44 Stat. 1355.)

### § 497. Invalidity of any provision of chapter as affecting other provisions.

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and the applicability of such provisions to other persons and circumstances shall not be affected thereby. (Mar. 3, 1927, ch. 309, § 4, 44 Stat. 1356.)

## Perishable Agricultural Commodities Act, 1930

(7 U.S.C. 499a-499s)

### § 499a. Definitions.

When used in this chapter—

(1) The term "person" includes individuals, partnerships, corporations, and associations;

(2) The term "Secretary" means the Secretary of Agriculture;

(3) The term "interstate or foreign commerce" means commerce between any State or Territory, or the District of Columbia and any place outside thereof; or between points within the same State or Territory, or the District of Columbia but through any place outside thereof; or within the District of Columbia;

(4) The term "perishable agricultural commodity"—

(A) Means any of the following, whether or not frozen or packed in ice: Fresh fruits and fresh vegetables of every kind and character; and

(B) Includes cherries in brine as defined by the Secretary in accordance with trade usages;

(5) The term "commission merchant" means any person engaged in the business of receiving in interstate or foreign commerce any perishable agricultural commodity for sale, on commission, or for or on behalf of another;

(6) The term "dealer" means any person engaged in the business of buying or selling in carloads any perishable agricultural commodity in interstate or foreign commerce, except that (A) no producer shall be considered as a "dealer" in respect of sales of any such commodity of his own raising; (B) no person buying any such commodity solely for sale at retail shall be considered as a "dealer" in respect of any such commodity in any calendar

year until his purchases of such commodity in carloads in such year are in excess of twenty; and (C) no person buying any such commodity for canning and/or processing within the State where grown shall be considered a "dealer" whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen or packed in ice, or consists of cherries in brine, within the meaning of paragraph 4 of this section. Any person not considered as a "dealer" under clauses (A), (B), and (C) may elect to secure a license under the provisions of section 499c of this title, and in such case and while the license is in effect such person shall be considered as a "dealer." As used in this paragraph, the term "in carloads" includes wholesale or jobbing quantities as defined for any commodity by the Secretary.

(7) The term "broker" means any person engaged in the business of negotiating sales and purchases of any perishable agricultural commodity in interstate or foreign commerce for or on behalf of the vendor or the purchaser, respectively;

(8) A transaction in respect of any perishable agricultural commodity shall be considered in interstate or foreign commerce if such commodity is part of that current of commerce usual in the trade in that commodity whereby such commodity and/or the products of such commodity are sent from one State with the expectation that they will end their transit, after purchase, in another, including in addition to cases within the above general description, all cases where sale is either for shipment to another State, or for processing within the State and the shipment outside the State of the products resulting from such processing. Commodities normally in such current of commerce shall not be considered out of such commerce through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this chapter. (June 10, 1930, ch. 436, § 1, 46 Stat. 531; Apr. 13, 1934, ch. 120, § 1, 48 Stat. 584; Aug. 20, 1937, ch. 719, § 1, 50 Stat. 725; June 29, 1940, ch. 456, §§ 1, 2, 54 Stat. 696.)

#### **§ 499b. Unfair conduct; what constitutes.**

It shall be unlawful in or in connection with any transaction in interstate or foreign commerce—

(1) For any commission merchant, dealer, or broker to engage in or use any unfair, unreasonable, discriminatory, or deceptive practice in connection with the weighing, counting, or in any way determining the quantity of any perishable agricultural commodity received, bought, sold, shipped, or handled in interstate or foreign commerce;

(2) For any dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any perishable agricultural commodity bought or sold or contracted to be bought, sold, or consigned in interstate or foreign commerce by such dealer;

(3) For any commission merchant to discard, dump, or destroy without reasonable cause, any perishable agricultural commodity received by such commission merchant in interstate or foreign commerce;

(4) For any commission merchant, dealer, or broker to make,

for a fraudulent purpose, any false or misleading statement in connection with any transaction involving any perishable agricultural commodity which is received in interstate or foreign commerce by such commission merchant, or bought or sold, or contracted to be bought, sold, or consigned, in such commerce by such dealer, or the purchase or sale of which in such commerce is negotiated by such broker; or to fail or refuse truly and correctly to account and make full payment promptly in respect of any transaction in any such commodity to the person with whom such transaction is had; or to fail, without reasonable cause, to perform any specification or duty, expressed or implied, arising out of any undertaking in connection with any such transaction;

(5) For any commission merchant, dealer, or broker, to misrepresent by word, act, mark, stencil, label, statement, or deed the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce;

(6) For any commission merchant, dealer, or broker, for a fraudulent purpose, to remove, alter, or tamper with any card, stencil, stamp, tag, or other notice placed upon any container or railroad car containing any perishable agricultural commodity, if such card, stencil, stamp, tag, or other notice contains a certificate or statement under authority of any Federal or State inspector or in compliance with any Federal or State law or regulation as to the grade or quality of the commodity contained in such container or railroad car or the State or country in which such commodity was produced;

(7) For any commission merchant, dealer, or broker, without the consent of an inspector, to make, cause, or permit to be made any change by way of substitution or otherwise in the contents of a load or lot of any perishable agricultural commodity after it has been officially inspected for grading and certification, but this shall not prohibit re-sorting and discarding inferior produce. (June 10, 1930, ch. 436, § 2, 46 Stat. 532; Apr. 13, 1934, ch. 120, §§ 2, 3, 48 Stat. 585; June 19, 1936, ch. 602, § 1, 49 Stat. 1533; Aug. 20, 1937, ch. 719, §§ 2-4, 50 Stat. 725, 726; June 29, 1940, ch. 456, §§ 3, 4, 54 Stat. 696; Apr. 6, 1942, ch. 211, 56 Stat. 200; July 30, 1956, ch. 786, § 1, 70 Stat. 726.)

### **§ 499c. Licenses.**

(a) **BY WHOM LICENSE REQUIRED; PENALTY FOR FAILURE TO OBTAIN.**

After December 10, 1930, no person shall at any time carry on the business of a commission merchant, dealer, or broker without a license valid and effective at such time. Any person who violates any provision of this subdivision shall be liable to a penalty of not more than \$500 for each such offense and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

Any person violating this provision may, upon a showing satisfactory to the Secretary of Agriculture, or his authorized representative, that such violation was not willful but was due to inadvertence, be permitted by the Secretary, or such representa-

tive, to settle his liability in the matter by the payment of the fees due for the period covered by such violation and an additional sum, not in excess of \$25, to be fixed by the Secretary of Agriculture or his authorized representative. Such payment shall be deposited in the Treasury of the United States in the same manner as regular license fees.

(b) APPLICATION; FEES; CREATION OF PERISHABLE AGRICULTURAL COMMODITIES ACT FUND; AVAILABILITY OF FUND FOR ADMINISTRATIVE EXPENSES; BUDGET REQUIREMENTS.

Any person desiring any such license shall make application to the Secretary. The Secretary may by regulation prescribe the information to be contained in such application. Upon the filing of the application, and annually thereafter, the applicant shall pay a fee not to exceed \$25, which shall be deposited in the Treasury of the United States as a special fund, without fiscal year limitation, to be designated as the "Perishable Agricultural Commodities Act fund", which shall be available for all expenses necessary to the administration of this chapter and chapters 20 and 25 of this title: *Provided*, That financial statements prescribed by the Director of the Bureau of the Budget for the last completed fiscal year, and as estimated for the current and ensuing fiscal years, shall be included in the budget as submitted to the Congress annually. (June 10, 1930, ch. 436, § 3, 46 Stat. 533; Aug. 20, 1937, ch. 719, § 5, 50 Stat. 726; June 15, 1950, ch. 254, § 1, 64 Stat. 217; July 30, 1956, ch. 786, § 2 (a), 70 Stat. 726.)

§ 499d. Same; issuance and refusal.

(a) ISSUANCE OF LICENSE; AUTHORITY EXERCISED THEREUNDER; TERMINATION.

Whenever an applicant has paid the prescribed fee the Secretary, except as provided in subdivision (b) of this section, shall issue to such applicant a license, which shall entitle the licensee to do business as a commission merchant and/or dealer and/or broker unless and until it is suspended or revoked by the Secretary in accordance with the provisions of this chapter, or is automatically suspended under section 499g (d) of this title, but said license shall automatically terminate on any anniversary date thereof unless the annual fee has been paid: *Provided*, That notice of the necessity of paying the annual fee shall be mailed at least thirty days before the anniversary date: *Provided further*, That if the annual fee is not paid by the anniversary date the licensee may obtain a renewal of that license at any time within thirty days by paying the fee provided in section 499c (b), plus \$5 ". . . which shall be deposited in the Perishable Agricultural Commodities Act fund provided for by section 499c (b) of this title."

(b) REFUSAL OF LICENSE; GROUNDS; EFFECT OF GIVING BOND.

The Secretary shall refuse to issue a license to an applicant (1) if he finds that, the applicant has previously been responsible in whole or in part for any violation of the provisions of the chapter for which a license of the applicant, or the license of any

partnership, association, or corporation in which the applicant held any office or, in the case of a partnership had any share or interest, was revoked under the provisions of section 499h of this title; or (2) if at any time within two years he has found after notice and hearing that said applicant was responsible in whole or in part for any flagrant or repeated violation of the provisions of section 499b of this title; or (3) if he finds, in case the applicant is a partnership, association, or corporation, that any individual holding office, or in the case of a partnership, having any interest or share in the applicant, has previously been responsible in whole or in part for any violation of the provisions of the chapter for which the license of such individual, or of any partnership, association, or corporation in which such person held any office, or in the case of a partnership, had any share or interest, was revoked under the provisions of section 499h of this title; or (4) if at any time within two years he has found after notice and hearing, in case the applicant is a partnership, association, or corporation, that any individual holding any office or, in the case of a partnership, having any interest or share in the applicant was responsible in whole or in part for any flagrant or repeated violation of the provisions of section 499b of this title; or (5) if he finds that the applicant, subject to his right of appeal under section 499g (c) of this title, has failed, except in case of bankruptcy, to pay within the time limit provided therein any reparation order which has been issued, within two years, against him as an individual, or against a partnership of which he was a member, or an association or corporation in which he held any office, or, in case the applicant is a partnership, association, or corporation, that any individual holding any office, or, in the case of a partnership, having any interest or share in the applicant, subject to his right of appeal under section 499g (c) of this title, has failed, except in the case of bankruptcy, to pay within the time limit provided therein any reparation order which has been issued, within two years, against him as an individual or against a partnership of which he was a member, or an association or corporation in which he held any office. Notwithstanding all of the foregoing provisions of this paragraph, the Secretary, in the case of such applicant, may issue a license if the applicant furnishes a bond or other satisfactory assurance that his business will be conducted in accordance with the provisions of the chapter and that he will pay all reparation orders which may previously have been issued against him for violations, or which may be issued against him within two years following the date of the license, subject to his right of appeal under section 499g (c) of this title, but such license shall not be issued before the expiration of one year from the date of revocation of license or from the date of the Secretary's finding that the applicant has been responsible, in whole or in part, for any flagrant or repeated violation of section 499b of this title. Such bond shall be in an amount sufficient in the judgment of the Secretary of Agriculture to insure payment of such reparation orders:

**(c) REVOCATION OF LICENSE BECAUSE OF EMPLOYMENT OF PERSON WHOSE LICENSE HAD BEEN REVOKED.**

The Secretary shall refuse to issue a license to an applicant if he

finds after notice and hearing that at any time within two years said applicant has been found guilty in a Federal court of having violated the provisions of sections 491-497 of this title, or of having violated section 499n (b) of this title, or, in case the applicant is a partnership, that any member of the partnership was found guilty within two years of having violated the provisions of sections 491-497 of this title, or section 499n (b) of this title, or, if the applicant is an association or corporation, that any officer or any person holding a responsible position therein has been found within two years to have been guilty of violating the provisions of sections 491-497 of this title, or section 499n (b) of this title;

**(d) WITHHOLDING LICENSE PENDING INVESTIGATION.**

The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed thirty days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or (b) whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the applicant should be refused a license, the applicant shall be given an opportunity for hearing within sixty days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee, the Secretary may refuse to issue a license to the applicant.

**(e) EFFECT OF BANKRUPTCY**

The Secretary may refuse to issue a license to any applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, has, within three years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 per centum of the stock of a corporation adjudicated or discharged as a

bankrupt, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this Act. (June 10, 1930, ch. 436, § 4, 46 Stat. 533; Apr. 13, 1934, ch. 120, §§ 4-7, 48 Stat. 585, 586; June 19, 1936, ch. 602, § 2, 49 Stat. 1533; Aug. 20, 1937, ch. 719, § 6, 50 Stat. 726; June 15, 1950, ch. 254, § 2, 64 Stat. 218; July 30, 1956, ch. 786, § 2(b), § 3, § 4, 70 Stat. 726).

#### **§ 499e. Liability to persons injured.**

##### **(a) AMOUNT OF DAMAGES**

If any commission merchant, dealer, or broker violates any provision of section 499b of this title he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

##### **(b) REMEDIES.**

Such liability may be enforced either (1) by complaint to the Secretary as hereinafter provided, or (2) by suit in any court of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, and the provisions of this chapter are in addition to such remedies. (June 10, 1930, ch. 436, § 5, 46 Stat. 534; Aug. 20, 1937, ch. 719, § 7, 50 Stat. 728.)

#### **§ 499f. Complaint and investigation.**

##### **(a) PETITION TO SECRETARY OF AGRICULTURE; TIME OF MAKING; CONTENTS; SERVICE; ANSWER.**

Any person complaining of any violation of any provision of section 499b of this title by any commission merchant, dealer, or broker may, at any time within nine months after the cause of action accrues, apply to the Secretary by petition, which shall briefly state the facts, whereupon, if, in the opinion of the Secretary, the facts therein contained warrant such action, a copy of the complaint thus made shall be forwarded by the Secretary to the commission merchant, dealer, or broker, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be prescribed by the Secretary.

##### **(b) COMPLAINT TO SECRETARY REQUESTING INVESTIGATION OF VIOLATIONS; BY WHOM MADE.**

Any officer or agency of any State or Territory having jurisdiction over commission merchants, dealers, or brokers in such State or Territory and any employee of the United States Department of Agriculture or any interested person may file, in accordance with rules and regulations of the Secretary, a complaint of any violation of any provision of this chapter by any commission merchant, dealer, or broker and may request an investigation of such complaint by the Secretary.

##### **(c) SERVICE OF COMPLAINT; HEARING.**

If there appear to be, in the opinion of the Secretary, any reasonable grounds for investigating any complaint made under this section, the Secretary shall investigate such complaint and may, if in his opinion the facts warrant such action, have said complaint served by registered mail or otherwise on the person

concerned and afford such person an opportunity for a hearing thereon before a duly authorized examiner of the Secretary in any place in which the said person is engaged in business: *Provided*, That in complaints wherein the amount claimed as damages does not exceed the sum of \$500, a hearing need not be held and proof in support of the complaint and in support of respondent's answer may be supplied in the form of depositions or verified statements of fact.

(d) DETERMINATION BY SECRETARY OF VIOLATIONS.

After opportunity for hearing on complaints where the damages claimed exceed the sum of \$500 has been provided or waived and on complaints where damages claimed do not exceed the sum of \$500 not requiring hearing as provided herein, the Secretary shall determine whether or not the commission merchant, dealer, or broker has violated any provision of section 499b of this title.

(e) COMPLAINTS BY NONRESIDENTS; BOND FOR COSTS AND FEES.

In case a complaint is made by a nonresident of the United States, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Secretary of Agriculture against the complainant on any counter claim by respondent: *Provided*, That the Secretary shall have authority to waive the furnishing of a bond by a complainant who is a resident of a country which permits the filing of a complaint by a resident of the United States without the furnishing of a bond. (June 10, 1930, ch. 436, § 6, 46 Stat. 534; Apr. 13, 1934, ch. 120, §§ 8-10, 48 Stat. 586, 587; Aug. 20, 1937, ch. 719, §§ 8, 9, 50 Stat. 728.)

**§ 499g. Reparation order.**

(a) DETERMINATION BY SECRETARY OF AGRICULTURE OF AMOUNT OF DAMAGES; ORDER FOR PAYMENT.

If after a hearing on a complaint made by any person under section 499f of this title or without hearing as provided in section 499f of this title, paragraphs (c) and (d), or upon failure of the party complained against to answer a complaint duly served within the time prescribed, or to appear at a hearing after being duly notified, the Secretary determines that the commission merchant, dealer, or broker has violated any provision of section 499b of this title, he shall, unless the offender has already made reparation to the person complaining, determine the amount of damage, if any, to which such person is entitled as a result of such violation and shall make an order directing the offender to pay to such person complaining such amount on or before the date fixed in the order. If, after the respondent has filed his answer to the complainant, it appears therein that the respondent has admitted liability for a portion of the amount claimed in the complaint as damages, the Secretary under such rules and regulations as he shall prescribe, unless the respondent has already made reparation to the person complaining, may issue an order directing the respondent to pay to the complainant the undisputed amount on or before the date fixed in the order, leaving the respondent's

liability for the disputed amount for subsequent determination. The remaining disputed amount shall be determined in the same manner and under the same procedure as it would have been determined if no order had been issued by the Secretary with respect to the undisputed sum;

(b) FAILURE TO COMPLY WITH ORDER OF SECRETARY; SUIT IN FEDERAL COURT TO ENFORCE LIABILITY; ORDER OF SECRETARY AS EVIDENCE; COSTS AND FEES.

If any commission merchant, dealer, or broker does not pay the reparation award within the time specified in the Secretary's order, the complainant, or any person for whose benefit such order was made, may within three years of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the commission merchant, dealer, or broker, or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages and the order of the Secretary in the premises. The orders, writs, and processes of the district courts may in these cases run, be served, and be returnable anywhere in the United States. Such suit in the district court shall proceed in all respects like other civil suits for damages, except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court, nor for costs at any subsequent state of the proceedings, unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit;

(c) APPEAL FROM REPARATION ORDER; PROCEEDINGS.

Either party adversely affected by the entry of a reparation order by the Secretary may, within thirty days from and after the date of such order, appeal therefrom to the district court of the United States for the district in which said hearing was held: *Provided*, That in cases handled without a hearing in accordance with paragraphs (c) and (d) of section 499f of this title or in which a hearing has been waived by agreement of the parties, appeal shall be to the district court of the United States for the district in which the party complained against is located. Such appeal shall be perfected by the filing of a notice thereof together with a petition in duplicate which shall recite prior proceedings before the Secretary, and shall state the grounds upon which petitioner relies to defeat the right of the adverse party to recover the damages claimed, with the clerk of said court with proof of service thereof upon the adverse party, together with a bond in double the amount of the reparation award conditioned upon the payment of the judgment entered by the court plus interest and costs, including a reasonable attorney's fee for the appellee, if the appellee shall prevail. The clerk of court shall immediately forward a copy thereof to the Secretary of Agriculture, who shall forthwith prepare, certify, and file in said court a true copy of the Secretary's decision, findings of fact, conclusions, and order in said case, together with copies of the pleadings upon which the case was heard and submitted to the Secretary. Such suit in the district court shall be a trial de novo and shall proceed in all respects like

other civil suits for damages, except that the findings of fact and order or orders of the Secretary shall be prima facie evidence of the facts therein stated. Appellee shall not be liable for costs in said court if appellee prevails he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of his costs. Such petition and pleadings certified by the Secretary upon which decision was made by him shall upon filing in the district court constitute the pleadings upon which said trial de novo shall proceed subject to any amendment allowed in that court;

**(d) SUSPENSION OF LICENSE FOR FAILURE TO OBEY REPARATION ORDER OR APPEAL.**

Unless the licensee against whom a reparation order has been issued shows to the satisfaction of the Secretary within five days from the expiration of the period allowed for compliance with such order that he has either taken an appeal as herein authorized or has made payment in full as required by such order his license shall be suspended automatically at the expiration of such five-day period until he shows to the satisfaction of the Secretary that he has paid the amount therein specified with interest thereon to date of payment: *Provided*, That if on the appeal the appellee prevails or if the appeal is dismissed the automatic suspension of license shall become effective at the expiration of ten days from the date of the judgment on the appeal unless prior thereto the judgment of the court has been satisfied. (June 10, 1930, ch. 436, § 7, 46 Stat. 534; Apr. 13, 1934, ch. 120, §§ 11-13, 48 Stat. 587, 588; June 19, 1936, ch. 602 § 3, 49 Stat. 1534; Aug. 20, 1937, ch. 719, § 10, 50 Stat. 728; June 23, 1938, ch. 599, 52 Stat. 953; May 14, 1940, ch. 196, 54 Stat. 214.)

**§ 499h. Grounds for suspension or revocation of license.**

**(a) AUTHORITY OF SECRETARY.**

Whenever (a) the Secretary determines, as provided in section 499f of this title, that any commission merchant, dealer, or broker has violated any of the provisions of section 499b of this title, or (b) any commission merchant, dealer, or broker has been found guilty in a Federal court of having violated section 499n (b) of this title, the Secretary may publish the facts and circumstances of such violation and/or, by order, suspend the license of such offender for a period not to exceed ninety days, except that, if the violation is flagrant or repeated, the Secretary may, by order, revoke the license of the offender;

**(b) EFFECT OF SUSPENSION OR REVOCATION OF LICENSE OF EMPLOYEE.**

The Secretary may, after thirty days' notice and an opportunity for a hearing, suspend or revoke the license of any commission merchant, dealer, or broker who, after the date given in such notice, continues to employ in any responsible position any individual whose license has been revoked or is under suspension or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension. Employment of an individual whose license has been revoked or is under suspension for failure to pay a reparation award or who was responsibly connected with any firm, partner-

ship, association, or corporation whose license has been revoked or is under suspension for failure to pay a reparation award after one year following the revocation or suspension of any such license may be permitted by the Secretary upon the filing by the employing licensee of a bond, of such nature and amount as may be determined by the Secretary, or other assurance satisfactory to the Secretary that its business will be conducted in accordance with the provisions of this Act.

**(c) FRAUD IN PROCUREMENT.**

If, after a license shall have been issued to an applicant, the Secretary believes that the license was obtained through a false or misleading statement in the application therefor or through a misrepresentation, concealment, or withholding of facts respecting any violation of this chapter by any officer, agent, or employee, he may, after thirty days' notice and an opportunity for a hearing, revoke said license, whereupon no license shall be issued to said applicant or any applicant in which the person responsible for such false or misleading statement or misrepresentation, concealment, or withholding of facts is financially interested, except under the conditions set forth in section 499d (b) of this title.

**(d) INJUNCTION.**

In addition to being subject to the penalties provided by section 499c (a) of this title, any commission merchant, dealer, or broker who engages in or operates such business without a valid and effective license from the Secretary shall be liable to be proceeded against in any court of competent jurisdiction in a suit by the United States for an injunction to restrain such defendant from further continuing so to engage in or operate such business, and, if the court shall find that the defendant is continuing to engage in such business without a valid and effective license, the court shall issue an injunction to restrain such defendant from continuing to engage in or to operate such business without such license. (June 10, 1930, ch. 436, § 8, 46 Stat. 535; Apr. 13, 1934, ch. 120, § 14, 48 Stat. 588; Aug. 20, 1937, ch. 719, § 11, 50 Stat. 730; July 30, 1956, ch. 786, § 6, 70 Stat. 727.)

**§ 499i. Accounts, records, and memoranda; duty of licensees to keep; contents; suspension of license or violation of duty.**

Every commission merchant, dealer, and broker shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. If such accounts, records, and memoranda are not so kept, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days. (June 10, 1930, ch. 436, § 9, 46 Stat. 535.)

**§ 499j. Orders; when in effect; continuance in force; suspension, modification and setting aside; penalty.**

Any order of the Secretary under this chapter other than an order for the payment of money shall take effect within such reasonable time, not less than ten days, as is prescribed in the order, and shall continue in force until his further order, or for a speci-

fied period of time, accordingly as it is prescribed in the order, unless such order is suspended, modified, or set aside by the Secretary or is suspended, modified, or set aside by a court of competent jurisdiction. Any such order of the Secretary, if regularly made, shall be final, unless before the date prescribed for its taking effect application is made to a court of competent jurisdiction by the commission merchant, dealer, or broker against whom such order is directed to have such order set aside or its enforcement, operation, or execution suspended or restrained. (June 10, 1930, ch. 436, § 10, 46 Stat. 535.)

**§ 499k. Injunctions; application of injunction laws governing orders of Interstate Commerce Commission.**

For the purposes of this chapter the provisions of all laws relating to the suspending or restraining of the enforcement, operation, or execution, or the setting-aside, in whole or in part, of the orders of the Interstate Commerce Commission are made applicable to orders of the Secretary under this chapter and to any person subject to the provisions of this chapter. (June 10, 1930, ch. 436, § 11, 46 Stat. 535.)

**§ 499l. Violation; report to Attorney General; proceedings in Federal courts; costs.**

The Secretary may report any violation of this chapter for which a civil penalty is provided to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay. The costs and expenses of such proceedings shall be paid out of the appropriation for the expenses of the courts of the United States. (June 10, 1930, ch. 436, § 12, 46 Stat. 536.)

**§ 499m. Investigation of complaints; procedure, penalties, etc.**

**(a) INVESTIGATION OF COMPLAINTS BY SECRETARY OF AGRICULTURE; INSPECTION OF ACCOUNTS, RECORDS, AND MEMORANDA; PENALTY FOR REFUSING INSPECTION.**

The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this Act, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 499i of this Act is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this Act, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after thirty days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

**(b) HEARINGS; SUBPOENAS; OATHS; WITNESSES; EVIDENCE.**

The Secretary, or any officer or employee designated by him for such purpose, may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, receive evidence, and require by subpoena the attendance and testimony of witnesses and the production of such accounts, records, and memoranda as may be material for the determination of any complaint under this chapter.

**(c) DISOBEDIENCE TO SUBPOENAS; REMEDY; CONTEMPT.**

In case of disobedience to a subpoena, the Secretary or any of his examiners may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of accounts, records, and memoranda. Any district court of the United States within the jurisdiction of which any hearing is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring the person to appear before the Secretary or his examiner or to produce accounts, records, and memoranda if so ordered, or to give evidence touching any matter pertinent to any complaint; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

**(d) DEPOSITIONS; PRODUCTION OF ACCOUNTS, RECORDS AND MEMORANDA.**

The Secretary may order testimony to be taken by deposition in any proceeding or investigation or incident to any complaint pending under this chapter at any stage thereof. Such depositions may be taken before any person designated by the Secretary and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition or under his direction and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce accounts, records, and memoranda in the same manner as witnesses may be compelled to appear and testify and produce accounts, records, and memoranda before the Secretary or any of his examiners.

**(e) FEES AND MILEAGE OF WITNESSES.**

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.

**(f) INCRIMINATING NATURE OF EVIDENCE AS EXCUSE FOR FAILURE OF WITNESS TO TESTIFY OR PRODUCE.**

No person shall be excused from attending, testifying, answering any lawful inquiry, or deposing or from producing any documentary evidence, before the Secretary or any officer or employee designated by him, in obedience to the subpoena of the Secretary or any such officer or employee, in any cause or proceeding, based upon or growing out of any alleged violation of this chapter, or upon the taking of any deposition herein provided for, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate

him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing, concerning which he is compelled under oath so to testify, or produce evidence, documentary or otherwise, before the Secretary or any officer or employee designated by him, in obedience to the subpoena of the Secretary, or any such officer or employee, or upon the taking of any such deposition, or in any such cause or proceeding: *Provided*, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. (June 10, 1930, ch. 436, § 13, 46 Stat. 536; July 30, 1956, ch. 786, § 6, 70 Stat. 727.)

#### **§ 499n. Inspection of perishable agricultural commodities.**

##### **(a) EMPLOYMENT OF INSPECTORS; FEES AND EXPENSES; INSPECTION CERTIFICATE AS EVIDENCE.**

The Secretary is authorized, independently and in cooperation with other branches of the Government, State, or municipal agencies and/or any person, whether operating in one or more jurisdictions, to employ and/or license inspectors to inspect and certify, without regard to the filing of a complaint under this chapter, to any interested person the class, quality, and/or condition of any lot of any perishable agricultural commodity when offered for interstate or foreign shipment or when received at places where the Secretary shall find it practicable to provide such service, under such rules and regulations as he may prescribe, including the payment of such fees and expenses as will be reasonable and as nearly as may be to cover the cost for the service rendered: *Provided*, That fees for inspections made by a licensed inspector, less the percentage thereof which he is allowed by the terms of his contract of employment with the Secretary as compensation for his services, shall be deposited into the Treasury of the United States as miscellaneous receipts; and fees for inspections made by an inspector acting under a cooperative agreement with a State, municipality, or other person shall be disposed of in accordance with the terms of such agreement: *Provided further*, That expenses for travel and subsistence incurred by inspectors shall be paid by applicant for inspection to the United States Department of Agriculture to be credited to the appropriation for carrying out the purposes of this chapter: *And provided further*, That official inspection certificates for fresh fruits and vegetables issued by the Secretary of Agriculture pursuant to any law shall be received by all officers and all courts of the United States, in all proceedings under this chapter, and in all transactions upon contract markets under sections 1-17a of this title as prima facie evidence of the truth of the statements therein contained;

##### **(b) ISSUANCE OF FRAUDULENT CERTIFICATES; PENALTIES.**

Whoever shall falsely make, issue, alter, forge, or counterfeit, or cause or procure to be falsely made, issued, altered, forged, or counterfeited, or willingly aid, cause, procure, or assist in, or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate of inspection issued under authority of this chapter, sections 491-497 of this title, or any Act making appropriations for the Department of Agriculture; or shall utter or pub-

lish as true or cause to be uttered or published as true any such false, forged, altered, or counterfeited certificate, for a fraudulent purpose, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500 or by imprisonment for a period of not more than one year, or both, at the discretion of the court. (June 10, 1930, ch. 436, § 14, 46 Stat. 537; Apr. 13, 1934, ch. 120, § 15, 48 Stat. 588; Aug. 20, 1937, ch. 719, § 12, 50 Stat. 730.)

**§ 499o. Rules, regulations, and orders by Secretary of Agriculture; appointment, removal, and compensation of officers and employees; expenditures; appropriations; abrogation of inconsistent statutes.**

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, from the Perishable Agricultural Commodities Act fund provided for by Section 499c (b) of this Title and any supplement or supplements to such fund, and as may be appropriated for by Congress; and there is authorized to be appropriated out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes. This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar only as they are inconsistent herewith or repugnant hereto. (June 10, 1930, ch. 436, § 15, 46 Stat. 537; June 15, 1950, chap. 254, § 3, 64 Stat. 218.)

**§ 499p. Liability of licensees for acts and omissions of agents.**

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any commission merchant, dealer, or broker, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure of such commission merchant, dealer, or broker as that of such agent, officer, or other person. (June 10, 1930, ch. 436, § 16, 46 Stat. 538.)

**§ 499q. Invalidity of separate provisions of chapter; effect on remainder.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby. (June 10, 1930, ch. 436, § 17, 46 Stat. 538.)

### **§ 499r. Citation of chapter.**

This chapter may be cited as the "Perishable Agricultural Commodities Act, 1930." (June 10, 1930, ch. 436, § 18, 46 Stat. 538.)

### **§ 499s. Depositing appropriations in fund.**

Any unexpended balances of appropriations for the current fiscal year, and any subsequent appropriations, made to carry out this Chapter and Chapters 20 and 25 of this title referred to in Section 499c (b) of this title, may be deposited in the Perishable Agricultural Commodities Act fund. (June 10, 1930, ch. 436, § 19, as added June 15, 1950, ch. 254, § 4, 64 Stat. 218.)

## **Export Standards for Apples and Pears**

(7 U.S.C. 581-589)

### **§ 581. Standards of export; establishment; shipping without certificate forbidden; hearings.**

It shall be unlawful for any person to ship or offer for shipment or for any carrier, or any steamship company, or any person to transport or receive for transportation to any foreign destination, except as provided in this chapter, any apples and/or pears in packages which are not accompanied by a certificate issued under authority of the Secretary of Agriculture showing that such apples or pears are of a Federal or State grade which meets the minimum of quality established by the Secretary for shipment in export. The Secretary is authorized to prescribe, by regulations, the requirements, other than those of grade, which the fruit must meet before certificates are issued. The Secretary shall provide opportunity, by public hearing or otherwise, for interested persons to examine and make recommendation with respect to any standard of export proposed to be established or designated, or regulation prescribed, by the Secretary for the purposes of this chapter. (June 10, 1933, ch. 59, § 1, 48 Stat. 123.)

### **§ 582. Notice of establishment of standards; shipments under contracts made before adoption of standards.**

The Secretary shall give reasonable notice through one or more trade papers of the effective date of standards of export established or designated by him under this chapter: *Provided*, That any apples or pears may be certified and shipped for export in fulfillment of any contract made within six months prior to the date of such shipment if the terms of such contract were in accordance with the grades and regulations of the Secretary in effect at the time the contract was made. (June 10, 1933, ch. 59, § 2, 48 Stat. 123.)

### **§ 583. Foreign standards; certification of compliance.**

Where the government of the country to which the shipment is to be made has standards or requirements as to condition of apples or pears, the Secretary may in addition to inspection and certification for compliance with the standards established or designated hereunder inspect and certify for determination as to compliance with the standards or requirements of such foreign

government and may provide for special certificates in such cases. (June 10, 1933, ch. 59, § 3, 48 Stat. 124.)

**§ 584. Shipments of less than carload lots; exemptions.**

Apples or pears in less than carload lots as defined by the Secretary may, in his discretion, be shipped to any foreign country without complying with the provisions of this chapter. (June 10, 1933, ch. 59, § 4, 48 Stat. 124.)

**§ 585. Fees for inspection and certification; certificates as prima facie evidence.**

For inspecting and certifying the grade, quality and/or condition of apples and/or pears, the Secretary shall cause to be collected a reasonable fee which shall as nearly as may be cover the cost of the service rendered; *Provided*, That when cooperative arrangements satisfactory to the Secretary, or his designated representative, for carrying out the purposes of this chapter cannot be made the fees collected hereunder in such cases shall be available until expended to defray the cost of the service rendered, and in such cases the limitations of the amounts expended for the purchase and maintenance of motor-propelled passenger-carrying vehicles shall not be applicable: *Provided further*, That certificates issued by the authorized agents of the United States Department of Agriculture shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained. (June 10, 1933, ch. 59, § 5, 48 Stat. 124.)

**§ 586. Refusal of certificates for violations of laws; penalties for violations.**

After opportunity for hearing the Secretary is authorized to refuse the issuance of certificates under this chapter for periods not exceeding ninety days to any person who ships or offers for shipment any apples and/or pears in foreign commerce in violation of any of the provisions of this chapter. Any person or any common carrier or any transportation agency knowingly violating any of the provisions of this chapter shall be fined not less than \$100 nor more than \$10,000 by a court of competent jurisdiction. (June 10, 1933, ch. 59, § 6, 48 Stat. 124.)

**§ 587. Rules and regulations; cooperation with other agencies, compensation of officers and employees; effect on other laws relating to same subject matter.**

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, whether operating in one or more jurisdictions; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses, including reporting services, as shall be necessary

to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress. This chapter shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this chapter; but it is intended that all such statutes shall remain in full force and effect except insofar as they are inconsistent herewith or repugnant hereto. (June 10, 1933, ch. 59, § 7, 48 Stat. 124.)

### § 588. Separability clause.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby. (June 10, 1933, ch. 59, § 8, 48 Stat. 124.)

### § 589. Definitions.

When used in this chapter—

(1) The term "person" includes individuals, partnerships, corporations, and associations.

(2) The term "Secretary of Agriculture" means the Secretary of Agriculture of the United States.

(3) Except as provided herein, the term "foreign commerce" means commerce between any State, or the District of Columbia, and any place outside of the United States or its possessions.

(4) The term "apples and/or pears" means fresh whole apples or pears, whether or not they have been in storage. (June 10, 1933, ch. 59, § 9, 48 Stat. 124.)

## Standard Containers Act of 1916

(15 U.S.C. 251-256)

### § 251. Standards for Climax baskets.

Standards for Climax baskets for grapes and other fruits and vegetables shall be the two-quart basket, four-quart basket, and twelve-quart basket, respectively:

(a) The standard two-quart Climax basket shall be of the following dimensions: Length of bottom piece, nine and one-half inches; width of bottom piece, three and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and seven-eighths inches, outside measurement; top of basket, length eleven inches and width five inches, outside measurement. Basket to have a cover five by eleven inches, when a cover is used.

(b) The standard four-quart Climax basket shall be of the following dimensions: Length of bottom piece, twelve inches; width of bottom piece, four and one-half inches; thickness of bottom piece, three-eighths of an inch; height of basket, four and eleven-sixteenths inches, outside measurement; top of basket, length fourteen inches, width six and one-fourth inches, outside measurement. Basket to have cover six and one-fourth inches by fourteen inches, when cover is used.

(c) The standard twelve-quart Climax basket shall be of the following dimensions: Length of bottom piece, sixteen inches;

width of bottom piece, six and one-half inches; thickness of bottom piece, seven-sixteenths of an inch; height of basket, seven and one-sixteenth inches, outside measurement; top of basket, length nineteen inches, width nine inches, outside measurement. Basket to have cover nine inches by nineteen inches, when cover is used.

The standards for Climax baskets for mushrooms shall be those set forth above, except that a one-pound Climax basket of the following dimensions shall be standard for mushrooms when plainly stamped or marked on the side of the basket with the words "for mushrooms only"; length of bottom piece, seven and three-fourths inches; width of bottom piece, three and three-sixteenths inches; thickness of bottom piece, three-eighths of an inch; height of basket, three and five-eighths inches; top of basket, length, nine and three-eighths inches; width, four and three-eighths inches, all outside measurements. Basket to have a cover four and three-eighths by nine and three-eighths inches when cover is used. (Aug. 31, 1916, ch. 426, § 1, 39 Stat. 673; June 11, 1934, ch. 447, § 1, 48 Stat. 930.)

#### **§ 252. Standard basket or container for small fruits and vegetables.**

The standard basket or other container for small fruits, berries, and vegetables shall be of the following capacities, namely dry one-half pint, dry pint, dry quart, or multiples of the dry quart.

(a) The dry half pint shall contain sixteen and eight-tenths cubic inches.

(b) The dry pint shall contain thirty-three and six-tenths cubic inches.

(c) The dry quart shall contain sixty-seven and two-tenths cubic inches. (Aug. 31, 1916, ch. 426, § 2, 39 Stat. 673.)

#### **§ 253. Failure to conform to standards; penalty; exception.**

It shall be unlawful to manufacture for shipment, or to sell for shipment, or to ship from any State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, any Climax baskets or other containers for small fruits, berries, or vegetables, whether filled or unfilled, which do not conform to the provisions of Sections 251-256 of this Title, or to use in any such shipment for any commodity other than mushrooms the one-pound Climax basket provided for in section 251 of this title; and any person guilty of a willful violation of any of the provisions of sections 251-256 of this title shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not exceeding \$25: *Provided*, That nothing herein contained shall apply to the manufacture, sale, or shipment of Climax baskets, baskets, or other containers for small fruits, berries, and vegetables when intended for export to foreign countries when such Climax basket, baskets, or other containers for small fruits, berries, and vegetables accord with the specifications of the foreign purchasers or comply with the law of the country to which shipment is made or to be made. (Aug. 31, 1916, ch. 426, § 3, 39 Stat. 674; June 11, 1934, ch. 447, § 2, 48 Stat. 930.)

**§ 254. Examination and test by Department of Agriculture; rules and regulations.**

The examination and test of Climax baskets, baskets, or other containers for small fruits, berries, and vegetables, for the purpose of determining whether such baskets or other containers comply with the provisions of section 251-256 of this title shall be made by the Department of Agriculture, and the Secretary of Agriculture shall establish and promulgate rules and regulations allowing such reasonable tolerances and variations as may be found necessary. (Aug. 31, 1916, ch. 426, § 4, 39 Stat. 674.)

**§ 255. Duties of United States attorney.**

It shall be the duty of each United States attorney to whom satisfactory evidence of any violation of sections 251-256 of this title is presented to cause appropriate proceedings to be commenced and prosecuted in the proper court of the United States for the enforcement of the penalties as in such case provided in said sections. (Aug. 31, 1916, ch. 426, § 5, 39 Stat. 674.)

**§ 256. Guaranty of manufacturer of baskets or containers as defined.**

No dealer shall be prosecuted under the provisions of sections 251-6 of this title when he can establish a guaranty signed by the manufacturer, wholesaler, jobber, or other party residing within the United States from whom such Climax baskets, baskets, or other containers, as defined in said sections, were purchased, to the effect that said Climax baskets, baskets, or other containers are correct within the meaning of said sections. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of Climax baskets, baskets, or other containers to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under the provisions of this said section. (Aug. 31, 1916, ch. 426, § 6, 39 Stat. 674.)

**Standard Containers Act of 1928**

(15 U.S.C. 257, 257a-257i)

**§ 257. Standard hampers and round stave baskets.**

The standard hampers and round stave baskets for fruits and vegetables shall be of the following capacities: one-eighth bushel, one-fourth bushel, three-eighths bushel, one-half bushel, five-eighths bushel, three-fourths bushel, one bushel, one-and-one-fourth bushels, one-and-one-half bushels, and two bushels, which, respectively, shall be of the cubic content set forth in this section. For the purposes of this subchapter a bushel, standard dry measure, has a capacity of two thousand one hundred and fifty and forty-two one-hundredths cubic inches.

(a) The standard one-eighth-bushel hamper or round stave basket shall contain two hundred and sixty-eight and eight-tenths cubic inches.

(b) The standard one-fourth-bushel hamper or round stave basket shall contain five hundred and thirty-seven and six-tenths cubic inches.

(bb) The standard three-eighths bushel hamper or round stave basket shall contain eight hundred and six and four-tenths cubic inches.

(c) The standard one-half-bushel hamper or round stave basket shall contain one thousand and seventy-five and twenty-one one-hundredths cubic inches.

(cc) The standard five-eighths-bushel hamper or round stave basket shall contain one thousand three hundred and forty-four cubic inches.

(d) The standard three-fourths-bushel hamper or round stave basket shall contain one thousand six hundred and twelve and eight-tenths cubic inches.

(e) The standard one-bushel hamper or round stave basket shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches.

(f) The standard one-and-one-fourth-bushel hamper or round stave basket shall contain two thousand six hundred and eighty-eight cubic inches.

(g) The standard one-and-one-half bushel hamper or round stave basket shall contain three thousand two hundred and twenty-five and sixty-three one-hundredths cubic inches.

(h) The standard two-bushel hamper or round stave basket shall contain four thousand three hundred and eighty-four one-hundredths cubic inches. (May 21, 1928, ch. 664, § 1, 45 Stat. 685; June 28, 1954, ch. 406, § 1, 68 Stat. 301).

#### **§ 257a. Standard splint baskets.**

The standard splint baskets for fruits and vegetables shall be the four-quart basket, eight-quart basket, twelve-quart basket, sixteen-quart basket, twenty-four quart basket, and thirty-two quart basket, standard dry measure. For the purposes of sections 257-257i of this title a quart standard dry measure has a capacity of sixty-seven and two-tenths cubic inches.

(a) The four-quart splint basket shall contain two hundred and sixty-eight and eight-tenths cubic inches.

(b) The eight-quart splint basket shall contain five hundred and thirty-seven and six-tenths cubic inches.

(c) The twelve-quart splint basket shall contain eight hundred and six and four-tenths cubic inches.

(d) The sixteen-quart splint basket shall contain one thousand and seventy-five and twenty-one one-hundredths cubic inches.

(e) The twenty-four quart splint basket shall contain one thousand six hundred and twelve and eight-tenths cubic inches.

(f) The thirty-two quart splint basket shall contain two thousand one hundred and fifty and forty-two one-hundredths cubic inches. (May 21, 1928, ch. 664, § 2, 45 Stat. 685.)

#### **§ 257b. Regulations to provide for reasonable variations in hampers and baskets; covers so attached as not to reduce capacity.**

The Secretary of Agriculture shall in his regulations under sections 257-257i of this title prescribe such tolerances as he may find necessary to allow in the capacities for hampers, round stave baskets, and splint baskets set forth in sections 257 and 257a of this title in order to provide for reasonable variations occurring in the course of manufacturing and handling. If a cover be used

upon any hamper or basket mentioned in this subchapter, it shall be securely fastened or attached in such a manner, subject to the regulations of the Secretary of Agriculture, as not to reduce the capacity of such hamper or basket below that prescribed therefor. (May 21, 1928, ch. 664, § 3, 45 Stat. 686.)

**§ 257c. Approval of manufacturers' dimension specifications by Secretary of Agriculture.**

No manufacturer shall manufacture hampers, round stave baskets, or splint baskets for fruits and vegetables unless the dimension specifications for such hampers, round stave baskets, or splint baskets shall have been submitted to and approved by the Secretary of Agriculture, who is directed to approve such specifications if he finds that hampers, round stave baskets, or splint baskets for fruits and vegetables made in accordance therewith would not be deceptive in appearance and would comply with the provisions of sections 257 and 257a of this title. (May 21, 1928, ch. 664 § 4, 45 Stat. 686.)

**§ 257d. Violations; what constitutes; punishment; guaranty against prosecution.**

It shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment, or to ship, hampers, round stave baskets, or splint baskets for fruits or vegetables, either filled or unfilled, or parts of such hampers, round stave baskets, or splint baskets that do not comply with this subchapter: *Provided*, That sections 257-257i of this title shall not apply to Climax baskets, berry boxes, and till baskets which comply with the provisions of sections 251-256 of this title, and the regulations thereunder. Any individual, partnership, association, or corporation that violates this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding \$500: *Provided further*, That no person shall be prosecuted under the provisions of said sections 257-257i of this title when he can establish a guaranty signed by the manufacturer, wholesaler, shipper, or other party residing within the United States from whom the hampers, round stave baskets, or splint baskets, as defined in said sections were purchased, to the effect that said hampers, round stave baskets, or splint baskets are correct, within the meaning of said sections. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of the hampers, round stave baskets, or splint baskets to such person, and in such case such party or parties making such sale shall be amenable to the prosecution, fines, and other penalties which would attach in due course under the provisions of said sections to the person who made the purchase. (May 21, 1928, ch. 664, §5, 45 Stat. 686.)

**§ 257e. Seizure of illegal hampers and baskets; condemnation; procedure.**

Any hamper, round stave basket, or splint basket for fruit or vegetables, whether filled or unfilled, or parts of such hampers, round stave baskets, or splint baskets not complying with sections 257-257i of this title, which shall be manufactured for sale or shipment, offered for sale, sold, or shipped, may be pro-

ceeded against in any district court of the United States within the district where the same shall be found and may be seized for confiscation by a process of libel for condemnation. Upon request the person entitled shall be permitted to retain or take possession of the contents of such hampers or baskets, but in the absence of such request, or when the perishable nature of such contents makes such action immediately necessary, the same shall be disposed of by destruction or sale, as the court or a judge thereof may direct. If such hampers, round stave baskets, splint baskets, or parts thereof be found in such proceeding to be contrary to said sections, the same shall be disposed of by destruction, except that the court may by order direct that such hampers, baskets, or parts thereof be returned to the owner thereof or sold upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such hampers, baskets, or parts thereof shall not be sold or used contrary to law. The proceeds of any sale under this section, less legal costs and charges, shall be paid over to the person entitled thereto. The proceedings in such seizure cases shall conform as near as may be to the proceedings in admiralty, except that either party may demand trial by jury of any issue or fact joined in such case, and all such proceedings shall be at the suit and in the name of the United States. (May 21, 1928, ch. 664, § 6, 45 Stat. 686.)

**§ 257f. Hampers and baskets for foreign countries; conformity to foreign specifications; banana hampers.**

Sections 257–257i of this title shall not prohibit the manufacture for sale or shipment, offer for sale, sale, or shipment of hampers, round stave baskets, splint baskets, or parts thereof, to any foreign country in accordance with the specifications of a foreign consignee or customer not contrary to the law of such foreign country; nor shall said sections prevent the manufacture or use of banana hampers of the shape and character now in commercial use as shipping containers for bananas. (May 21, 1928, ch. 664, § 7, 45 Stat. 687.)

**§ 257g. Duty of United States attorneys to prosecute.**

It shall be the duty of each United States attorney to whom satisfactory evidence of any violation of sections 257–257i of this title is presented to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States in his district for the enforcement of the provisions of said sections. (May 21, 1928, ch. 664, § 8, 45 Stat. 687.)

**§ 257h. Regulations by Secretary of Agriculture; examination and tests.**

The Secretary of Agriculture shall prescribe such regulations as he may find necessary for carrying into effect the provisions of sections 257–257i, and shall cause such examinations and tests to be made as may be necessary in order to determine whether hampers, round stave baskets, and splint baskets, or parts thereof, subject to said sections, meet its requirements, and may take samples of such hampers, baskets, or parts thereof, the cost of which samples, upon request, shall be paid to the person entitled. (May 21, 1928, ch 664, § 9, 45 Stat. 687.)

**§ 257i. Carrying out purposes of statute; authority of Secretary of Agriculture; cooperation with other agencies; employment of persons and means; payment of expenses; appropriations.**

For carrying out the purposes of sections 257-257i of this title the Secretary of Agriculture is authorized to cooperate with State, county and municipal authorities, manufacturers, dealers, and shippers, to employ such persons and means, and to pay such expenses, including rent, printing publications, and the purchase of supplies and equipment in the District of Columbia and elsewhere, as he shall find to be necessary, and there are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes. (May 21, 1928, ch. 664, § 10, 45 Stat. 687.)

## **Grain and Seed**

### **United States Grain Standards Act**

(7 U.S.C. 71-87)

**§ 71. Short title of chapter.**

This chapter shall be known by the short title of the "United States Grain Standards Act." (Aug. 11, 1916, ch. 313, part B, § 1, 39 Stat. 482.)

**§ 72. Definitions; "person"; "interstate or foreign commerce."**

The word "person," whenever used in this chapter shall be construed to import the plural or singular, as the case demands, and shall include individuals, associations, partnerships, and corporations; the words "in interstate or foreign commerce," wherever used in this chapter, mean "from any State, Territory, or District to or through any other State, Territory, or District, or to or through any foreign country, or within any Territory or District." (Aug. 11, 1916, ch. 313, part B, § 1, 39 Stat. 482.)

**§ 73. Liability of principal for act of agent.**

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office, shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person. (Aug. 11, 1916, ch. 313, part B, § 1, 39 Stat. 482.)

**§ 74. Establishment of grain standards by Secretary; promulgation.**

The Secretary of Agriculture is authorized to investigate the handling, grading and transportation of grain and to fix and establish standards of quality and condition for corn (maize), wheat, rye, oats, barley, flaxseed, soybeans, and such other grains as in his judgment the usages of the trade may warrant and permit, and the Secretary of Agriculture shall have power to alter or modify such standards whenever the necessities of the trade may require. In promulgating the standards, or any alteration or modification of such standards, the Secretary shall specify the

date or dates when the same shall become effective, and shall give public notice, not less than ninety days in advance of such date or dates, by such means as he deems proper. (Aug. 11, 1916, ch. 313, part B, § 2, 39 Stat. 482; July 18, 1940, ch. 636, 54 Stat. 765.)

#### **§ 75. Designation of official grain standards.**

The standards fixed and established as authorized in section 74 of this title shall be known as the official grain standards of the United States. (Aug. 11, 1916, ch. 313, part B, § 3, 39 Stat. 483.)

#### **§ 76. Compulsory use of official standards; exceptions; inspection and grading after shipment; appeal.**

Whenever standards shall have been fixed and established under this chapter for any grain no person thereafter shall ship or deliver for shipment in interstate or foreign commerce any such grain which is sold, offered for sale, or consigned for sale by grade unless the grain shall have been inspected and graded by an inspector licensed under this chapter and the grade by which it is sold, offered for sale, or consigned for sale be one of the grade fixed therefor in the official grain standards of the United States: *Provided*, That any person may sell, offer for sale, or consign for sale, ship or deliver for shipment in interstate or foreign commerce any such grain by sample or by type, or under any name, description, or designation which is not false or misleading, and which name, description, or designation does not include in whole or in part the terms of any official grain standard of the United States: *Provided further*, That any such grain sold, offered for sale, or consigned for sale by grade may be shipped or delivered for shipment in interstate or foreign commerce without inspection at point of shipment by an inspector licensed under this chapter, to or through any place at which an inspector licensed under this chapter is located, subject to be inspected by a licensed inspector at the place to which shipped or at some convenient point through which shipped for inspection, which inspection shall be under such rules and regulations as the Secretary of Agriculture shall prescribe, and subject further to the right of appeal from such inspection, as provided in section 78 of this title: *And provided further*, That any such grain sold, offered for sale, or consigned for sale by any of the grades fixed therefor in the official grain standards may, upon compliance with the rules and regulations prescribed by the Secretary of Agriculture, be shipped in interstate or foreign commerce without inspection from a place at which there is no inspector licensed under this chapter to a place at which there is no such inspector, subject to the right of either party to the transaction to refer any dispute as to the grade of the grain to the Secretary of Agriculture, who may determine the true grade thereof. No person shall in any certificate or in any contract or agreement of sale or agreement to sell by grade, either oral or written, involving, or in any invoice or bill of lading or other shipping document relating to, the shipment or delivery for shipment, in interstate or foreign commerce of any grain for which standards shall have been fixed and established under this chapter, describe, or in any way refer to, any of such grain as being of any grade other than a grade fixed therefor in the official

grain standards of the United States. (Aug. 11, 1916, ch. 313, part B, § 4, 39 Stat. 483.)

**§ 77. Misrepresentation respecting grade; reexamination by Secretary of inspected grain; hearing and publication of findings.**

No person, except as permitted in section 76 of this title, shall represent that any grain shipped or delivered for shipment in interstate or foreign commerce is of a grade fixed in the official grain standards other than as shown by a certificate therefor issued in compliance with this chapter; and the Secretary of Agriculture is authorized to cause examinations to be made of any grain for which standards shall have been fixed and established under this chapter, and which has been certified to conform to any grade fixed therefor in such official grain standards, or which has been shipped or delivered for shipment in interstate or foreign commerce. Whenever, after opportunity for hearing is given to the owner or shipper of the grain involved, and to the inspector thereof if the same has been inspected, it is determined by the Secretary that any quantity of grain has been incorrectly certified to conform with a specified grade, or has been sold, offered for sale, or consigned for sale under any name, description, or designation which is false or misleading, he may publish his findings. (Aug. 11, 1916, ch. 313, part B, § 5, 39 Stat. 483.)

**§ 78. Appeal to Secretary from official grading; fees for reinspection; conclusiveness of findings on appeal.**

Whenever standards shall have been fixed and established under this chapter for any grain and any quantity of such grain sold, offered for sale, or consigned for sale, or which has been shipped, or delivered for shipment in interstate or foreign commerce shall have been inspected and a dispute arises as to whether the grade as determined by such inspection of any such grain in fact conforms to the standard of the specified grade, any interested party may, either with or without reinspection, appeal the question to the Secretary of Agriculture, and the Secretary of Agriculture is authorized to cause such investigation to be made and such tests to be applied as he may deem necessary and to determine the true grade: *Provided*, That any appeal from such inspection and grading to the Secretary of Agriculture shall be taken before the grain leaves the place where the inspection appealed from was made and before the identity of the grain has been lost, under such rules and regulations as the Secretary of Agriculture shall prescribe. Whenever an appeal shall be taken or a dispute referred to the Secretary of Agriculture under this chapter, he shall charge and assess, and cause to be collected, a reasonable fee, in amount to be fixed by him, which fee, in case of an appeal, shall be refunded if the appeal is sustained. All such fees, not so refunded, shall be deposited and covered into the Treasury as miscellaneous receipts. The findings of the Secretary of Agriculture as to grade, signed by him or by such officer or officers, agent or agents, of the Department of Agriculture as he may designate, made after the parties in interest have had opportunity to be heard, shall be accepted in the courts of the United States as prima facie evidence of the true grade of the grain determined by him at the time and

place specified in the findings. (Aug. 11, 1916, ch. 313, part B, § 6, 39 Stat. 484.)

### **§ 79. License to inspect and grade; State inspectors.**

The Secretary of Agriculture may issue a license to any person, upon presentation to him of satisfactory evidence that such person is competent, to inspect and grade grain and to certificate the grade thereof for shipment or delivery for shipment in interstate or foreign commerce, under this chapter and the rules and regulations prescribed thereunder. No person authorized or employed by any State, county, city, town, board of trade, chamber of commerce, corporation, society, partnership, or association to inspect or grade grain shall certify, or otherwise state or indicate in writing, that any grain for shipment or delivery for shipment in interstate or foreign commerce, which has been inspected or graded by him, or by any person acting under his authority, is of one of the grades of the official grain standards of the United States, unless he holds an unsuspended and unrevoked license issued by the Secretary of Agriculture: *Provided*, That in any State which has, or which may hereafter have a State grain inspection department established by the laws of such State, the Secretary of Agriculture shall issue licenses to the persons duly authorized and employed to inspect and grade grain under the laws of such State. (Aug. 11, 1916, ch. 313, part B, § 7, 39 Stat. 484.)

### **§ 80. Revocation and suspension of license.**

The Secretary of Agriculture may suspend or revoke any license issued by him under this chapter whenever, after opportunity for hearing has been given to the licensee, the Secretary shall determine that such licensee is incompetent or has knowingly or carelessly graded grain improperly or by any other standards than is authorized under this chapter, or has issued any false certificate of grade, or has accepted any money or other consideration, directly or indirectly, for any neglect or improper performance of duty, or has violated any provisions of this chapter or of the rules and regulations made thereunder. Pending investigation the Secretary of Agriculture, whenever he deems necessary, may suspend a license temporarily without hearing. (Aug. 11, 1916, ch. 313, part B, § 7, 39 Stat. 484.)

### **§ 81. Disqualification to act as inspector or departmental agent.**

No person licensed by the Secretary of Agriculture to inspect or grade grain or employed by him in carrying out any of the provisions of this chapter shall, during the term of such license or employment, be interested, financially or otherwise, directly or indirectly, in any grain elevator or warehouse, or in the merchandising of grain, nor shall he be in the employment of any person or corporation owning or operating any grain elevator or warehouse. (Aug. 11, 1916, ch. 313, part B, § 7, 39 Stat. 484.)

### **§ 82. Records and reports by inspectors.**

The Secretary of Agriculture shall require every inspector under this chapter to keep complete and correct records of all

grain graded and inspected by him and to make reports to the Secretary of Agriculture, in such forms and at such times as he may require, showing the place of inspection, the date of inspection, the name of the elevator or warehouse, if any, to which the grain was delivered or from which it was shipped, the kind of grain, the quantity of each kind, the grade thereof, and such other information as the Secretary of Agriculture may deem necessary. (Aug. 11, 1916, ch. 313, part B. § 7, 39 Stat. 484.)

### **§ 83. Semiannual reports by Secretary.**

The Secretary of Agriculture, on each first Tuesday in January and each first Tuesday in July of each year shall make publication of a summary of such facts as are ascertained, showing in as great detail as possible all the facts, including a summary as to the amount and grade of grain delivered to any elevator or warehouse and the amount and grade of grain delivered from such elevator or warehouse, and the estimated amount received on sample or type by such elevator or warehouse, and the estimated amount delivered therefrom on sample or type. (Aug. 11, 1916, ch. 313, part B, § 7, 39 Stat. 484.)

### **§ 84. Adoption by Secretary of rules and regulations generally.**

The Secretary of Agriculture shall, from time to time, make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this chapter. (Aug. 11, 1916, ch. 313, part B, § 8, 39 Stat. 485.)

### **§ 85. Penalty for violations.**

Any person who shall knowingly violate any of the provisions of sections 76 or 79-83 of this title, or any inspector licensed under this chapter, or any person sampling grain for inspection under this chapter, who shall knowingly inspect, grade, or sample improperly any grain which has been shipped or delivered for shipment in interstate or foreign commerce, or shall knowingly give any false or incorrect certificate of grade, or shall accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty, and any person who shall improperly influence or attempt to improperly influence any such inspector or sampler in the performance of his duty, or shall knowingly or willfully cause, or attempt to cause, the issuance of a false or incorrect certificate of grade under this chapter by deceptive loading, handling, or sampling of grain, or by submitting grain for inspection knowing that it has been so loaded, handled, or sampled, or by any other means, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$1,000, or be imprisoned not more than one year, or both. (Aug. 11, 1916, ch. 313, part B, § 9, 39 Stat. 485; Aug. 1, 1956, ch. 812, 70 Stat. 780.)

### **§ 86. Interference with execution of official duties; punishment.**

Every person who forcibly assaults, resists, impedes, or interferes with any officer or employee of the United States Department of Agriculture in the execution of any duties authorized to be performed by this chapter or by the rules and regulations made thereunder shall, upon conviction thereof, be fined not more than

\$1,000, or be imprisoned not more than one year, or both. (Aug. 11, 1916, ch. 313, part B, § 10, 39 Stat. 485.)

**§ 87. Effect of partial invalidity of chapter.**

If any clause, sentence, paragraph, or part of this chapter shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. (Aug. 11, 1916, ch. 313, part B, § 11, 39 Stat. 485.)

**Federal Seed Act**

(7 U.S.C. 1551-1609)

**§ 1551. Short title.**

This chapter may be cited as the "Federal Seed Act." (Aug. 9, 1939, ch. 615, § 1, 53 Stat. 1275.)

**§ 1561. Definition of terms.**

(a) When used in this chapter—

(1) The term "United States" means the several States, Alaska, District of Columbia, Hawaii, 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 purposes of this chapter with respect to labeling for variety and origin (but not in anywise 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 in, that current of commerce usual in the 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 current of commerce shall not be considered out of such current through resort being had to any means of device intended to remove transactions in respect thereto from the provisions of this chapter.

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

(7) The term—

(A) "Agricultural seeds" shall include grass, forage, and field crop seeds, as follows:

- Agropyron cristatum* (L.) Beauv.—Crested wheatgrass.  
*Agropyron pauciflorum* (Schwein.) Hitchc.—Slender wheatgrass.  
*Agropyron smithii* Rydb.—Blue-stem.  
*Agrostis alba* L.—Redtop.  
*Agrostis canina* L.—Velvet bent.  
*Agrostis palustris* Huds.—Creeping bent.  
*Agrostis* spp.—Bentgrasses.  
*Avena* spp.—Oat.  
*Beta vulgaris* L.—Field beet, excluding sugar beet.  
*Brassica napus* L.—Winter rape.  
*Bromus inermis* Leyss.—Smooth brome.  
*Chloris gayana* Kunth.—Rhodes grass.  
*Cynosurus cristatus* L.—Crested dogtail.  
*Dactylis glomerata* L.—Orchard grass.  
*Echinochloa crusgalli frumentacea* (Roxb.) Wight.—Japanese millet.  
*Fagopyrum vulgare* Hill.—Common buckwheat.  
*Festuca* spp.—Fescue.  
*Gossypium* spp.—Cotton.  
*Hordeum* spp.—Barley  
*Lespedeza sericea* (Thumb.) Miq.—Chinese lespedeza.  
*Lespedeza stipulacea* Maxim.—Korean lespedeza.  
*Lespedeza striata* (Thumb.) Hook and Arn.—Common and Kobe lespedeza.  
*Linum usitatissimum* L.—Flax.  
*Lolium multiflorum* Lam.—Italian ryegrass.  
*Lolium perenne* L.—Perennial ryegrass.  
*Medicago arabica* (L.) All.—Bur-clover.  
*Medicago hispida* Gaertn.—Bur-clover.  
*Medicago lupulina* L.—Black medick.  
*Medicago sativa* L.—Alfalfa.  
*Melilotus alba* Desr.—White sweet-clover.  
*Melilotus indica* (L.) All.—Sour-clover.  
*Melilotus officinalis* (L.) Lam.—Yellow sweetclover.  
*Melinis minutiflora* Beauv.—Molasses grass.  
*Oryza sativa* L.—Rice.  
*Panicum fasciculatum* Swartz.—Browntop millet.  
*Panicum miliaceum* L.—Proso.  
*Paspalum dilatatum* Poir.—Dallis grass.  
*Paspalum notatum* Fluegge.—Bahia grass.  
*Pennisetum glaucum* (L.) R. Br.—Pearl millet.  
*Pennisetum purpureum* Schumach.—Napier grass.  
*Phleum pratense* L.—Timothy.  
*Phalaris arundinacea* L.—Reed canary grass.  
*Pisum sativum arvense* L. (Poir.).—Field pea, Austrian winter pea.  
*Poa annua* L.—Annual bluegrass.  
*Poa compressa* L.—Canada bluegrass.  
*Poa nemoralis* L.—Wood bluegrass.  
*Poa pratensis* L.—Kentucky bluegrass.  
*Poa trivialis* L.—Rough bluegrass.  
*Secale cereale* L.—Rye.  
*Setaria italica* (L.) Beauv.—Foxtail, German, Hungarian, or golden millet.  
*Soja max* (L.) Piper.—Soybean.  
*Sorghum vulgare* Pers.—Sorghum.  
*Sorghum vulgare sudanese* (Piper) Hitchc.—Sudan grass.  
*Stizolobium utile* (Wall.) Piper and Tracy.—Velvetbean.  
*Trifolium dubium* Sibth.—Suckling clover.  
*Trifolium hybridum* L.—Alsike clover.  
*Trifolium*<sup>1</sup> *incarnatum* L.—Crimson clover.  
*Trifolium*<sup>1</sup> *pratense* L.—Red clover.  
*Trifolium repens* L.—White clover.  
*Triticum* spp.—Wheat; spelt; emmer.  
*Vicia angustifolia* (L.) Reich.—Narrowleaf vetch.  
*Vicia atropurpurea* Desf.—Purple vetch.  
*Vicia dasycarpa* Ten.—Woollypod vetch.  
*Vicia monantha* Desf.—Monantha vetch.  
*Vicia pannonica* Crantz.—Hungarian vetch.  
*Vicia sativa* L.—Common vetch.  
*Vicia villosa* Roth.—Hairy vetch.  
*Vigna sinensis* (Torner) Savi.—Cowpea.  
*Zea mays* L.—Field corn:

*Provided*, That the Secretary of Agriculture is authorized by rules and regulations to add to or take from such list of agricul-

<sup>1</sup> So in original, probably should read "Trifolium."

tural seed, when he finds that any seeds are or are not used for seeding purposes in the United States.

(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) (A) For the purpose of subchapter II of this chapter, the term "weed seeds" means the seeds or bulblets of plants recognized as weeds either by the law or rules and regulations of—

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

(ii) Alaska, Hawaii, Puerto Rico, or District of Columbia into which transported, or District of Columbia in which sold.

(B) For the purpose of subchapter III of this chapter, the term "weed seed" means seeds or bulblets of plants which are found by the Secretary of Agriculture to be detrimental to the agricultural interests of the United States, or any part thereof.

(9) (A) For the purpose of subchapter II of this chapter, 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 Alaska, Hawaii, Puerto Rico, or the District of Columbia, into which transported, or District of Columbia in which sold; or

(iii) by the rules and regulations of the Secretary of Agriculture under this chapter, 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 subchapter III of this chapter, the term "noxious-weed seeds" means the seeds of *Lepidium draba* L., *Lepidium repens* (Schrenk) Boiss., *Hymenophyllum pubescens* C. A., Mey., white top; *Crisium arvense* (L.) Scop., Canada thistle; *Cuscuta* spp. dodder; *Agropyron repens* (L.) Beauv., quackgrass; *Sorghum halepense* (L.) Pers., Johnson grass; *Convolvulus arvensis* L., bindweed; *Centaurea picris* Pall., Russian knapweed; *Sonchus arvensis* L., perennial sowthistle; *Euphorbia 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, Alaska, District of Columbia, Hawaii, 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, wheat, oat, vetch, sweetclover, 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 1592 of this title.

(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 1593 of this title.

(15) The term "hard seeds" 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 by germination of the kind of seed concerned, determined by methods prescribed under section 1593 of this title.

(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 1593 of this title.

(17) The term "pure live seed" for the purpose of subchapter III of this chapter means that portion of any lot of seed subject to this chapter that consists of live agricultural or vegetable seed determined by methods prescribed under section 1593 of this title.

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

(19) The term "labeling" includes all labels, 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.

(20) 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 chapter.

(21) Subject to such tolerances as the Secretary of Agriculture is authorized to prescribe under the provisions of this chapter—

(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.

(22) 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 and which contain less than 25 per centum of live agricultural or vegetable seeds.

(23) 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. (Aug. 9, 1939, ch. 615, title I, § 101, 53 Stat. 1275; June 25, 1948, ch. 646, § 1, 62 Stat. 870; Aug. 1, 1956, ch. 852, § 1, 70 Stat. 908.)

#### **§ 1571. Prohibitions relating to interstate commerce in certain seeds.**

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 container bears a label giving the following information in accordance with rules and regulations prescribed under section 1592 of this title:

(1) The name of (A) kind, or (B) kind and variety, or (C) kind and type, for each agricultural seed component present in excess of 5 per centum of the whole and the percentage by weight of each: *Provided*, That such components are expressed in accordance with the category designated under (A), (B), or (C);

(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 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 1561 (a) (9) (A) (iii) of this title 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, (A) percentage of germination, exclusive of hard seed, (B) percentage of hard seed, if present, (C) the calendar month and year the test was completed to determine such percentages;

(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 1592 of this title, indicating the person who transports or delivers for transportation said seed in interstate commerce;

(b) Any vegetable seeds, for seeding purposes, in containers, unless each container bears a label giving the following information in accordance with rules and regulations prescribed under section 1592 of this title:

(1) Name of kind and variety of seed;

(2) For seeds which germinate less than the standard last established by the Secretary of Agriculture, as provided under section 1593 (c) of this title—

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

(ii) 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

(3) 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 1592 of this title, 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 delivery 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 (b) a longer period not to exceed nine months, exclusive of the calendar month in which the test was completed, for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will maintain during such longer period a germination within the established limits of tolerance.

(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 chapter 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 chapter 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 chapter 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 chapter 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 chapter, 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. (Aug. 9, 1939, ch. 615, title II, § 201, 53 Stat. 1279.)

### § 1572. Records.

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, germination and purity of each lot of agricultural seed offered, and the Secretary of Agriculture, or his duly authorized agents, shall have the right to inspect such records for the purpose of the effective administra-

tion of this chapter. (Aug. 9, 1939, ch. 615, title II, § 202, 53 Stat. 1281.)

### § 1573. Exemptions.

#### (a) CARRIER TRANSPORTING SEEDS.

The provisions of sections 1571 and 1572 of this title 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 chapter; 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 1571 and 1572 of this title 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) SEEDS FOR SEEDING PURPOSES.

The provisions of section 1571 (a) or (b) of this title 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 for 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 pertaining to such seed shall bear the various statements required for the respective seeds under section 1571 (a) and (b) of this title; or

(B) if consigned to a seed cleaning or processing establishment, to be cleaned or processed for seeding purposes: *Provided*, That this fact is so stated in the invoice, if in bulk, or on attached labels, if in containers: *Provided further*, That any such seed later to be labeled as to origin and/or variety, and for which consecutive records are necessary to establish these facts, shall be labeled as to these items in accordance with rules and regulations prescribed under section 1592 of this title.

#### (c) EMERGENCY PREVENTING PRESENTATION OF INFORMATION.

When the Secretary of Agriculture finds that, because of the time interval between seed harvesting and sowing, or because of an emergency beyond human control, the information required by this chapter 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 section 1571 (a) and (b) of this title as to the required labeling for germination and hard seed shall not apply for such period and to such kinds of seed as he may specify in his said rules and regulations.

(d) **INTERMIXTURE OF UNIDENTIFIED SEEDS.**

The provisions of section 1571 (a) and (b) of this title relative to the labeling of agricultural and vegetable seeds with the percentages of the kind or variety of type of seeds shall not be deemed violated if there be other 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 all proper precautions to insure the identity to be that stated. (Aug. 9, 1939, ch. 615, title II, § 203, 53 Stat. 1281.)

**§ 1574. Disclaimers and nonwarranties.**

The use of a disclaimer 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 the rules and regulations made and promulgated thereunder. (July 9, 1956, ch. 520, § 2, 70 Stat. 508.)

**§ 1575. False advertising.**

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. (Aug. 9, 1939, ch. 615, title II, § 205, 53 Stat. 1282.)

**§ 1581. Prohibitions relating to importations.**

(a) The importation into the United States is prohibited of—

(1) any seed containing 10 per centum or more of any agricultural or vegetable seeds if any such seed is adulterated or unfit for seeding purposes, or is required to be stained and is not so stained, under the terms of this subchapter, or the labeling of which is false or misleading in any respect;

(2) screenings of any seeds subject to subchapter III of this chapter (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 the seeds of alfalfa or red clover, which has been stained prior to being offered for entry in a manner that does not permit compliance with the provisions of this subchapter and the regulations made and promulgated thereunder. (Aug. 9, 1939, ch. 615, title III, § 301, 53 Stat. 1282.)

#### **§ 1582. Procedure relating to importations; disposal of refuse; exceptions.**

(a) The Secretary of the Treasury shall deliver to the Secretary of Agriculture, subject to joint rules and regulations prescribed under section 1592 of this title, samples of seed and screenings which are being imported into the United States, or offered for import, giving notice thereof to the consignee, and if it appears from the examination of such samples that any seed or screenings offered to be imported into the United States are subject to the provisions of this subchapter and do not comply with the provisions of this subchapter, 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 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 consignee within twelve months from the date of notice of such refusal shall be destroyed in accordance with joint rules and regulations prescribed under section 1592 of this title: *Provided*, That the Secretary of the Treasury may deliver to the consignee such seed or screenings pending examination and decision in the matter or for staining, if it be seed which is required to be stained, or for cleaning, on the execution of a redelivery bond for such amount as may be necessary under joint rules and regulations prescribed under section 1592 of this title, and on refusal to return such seed or screenings for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding such seed or screenings from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond as liquidated damages: *And provided further*, That all charges for 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 importation 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 1592 of this title.

(c) The provisions of this subchapter 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 chapter: *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 1592 of this title. (Aug. 9, 1939, ch. 615, title III, § 302, 53 Stat. 1283.)

#### § 1583. Adulterated seed.

Seed subject to the provisions of section 1581 of this title is adulterated if any kind of such seed contains more than 5 per centum by weight of seed or seeds of another kind or kinds of similar appearance: *Provided*, That the mixture of the seed of white and alsike clover, or red clover and alsike clover, shall not be deemed to be adulterated, and that other seed mixtures of similar kinds of seeds of similar appearance shall not be deemed to be adulterated when the Secretary of Agriculture finds and prescribes by order that the importation of such seed mixtures for planting is not detrimental to the user of such seeds (Aug. 9, 1939, ch. 615, title III, § 303, 53 Stat. 1283.)

#### § 1584. Seed unfit for seeding purposes.

Seed subject to the provisions of section 1581 of this title is unfit for seeding purposes—

(a) If any such seed contains noxious-weed seed at a rate in excess of—

(1) one noxious-weed seed in each ten grams of the seed of timothy, orchard grass, bromegrass, crested wheatgrass, slender wheatgrass, ryegrass, sweetclover, alfalfa, millet, rape, flax, clovers, and species of *Agrostis*, *Festuca*, or *Poa*, or any kind of seed of a size and weight similar to or less than those named;

(2) one noxious-weed seed in each twenty-five grams of the seed of sorghum, Sudan grass, and buckwheat, or any kind of seed of a size and weight greater than the seeds referred to in (a) (1), but less than seeds referred to in (a) (3) of this section;

(3) one noxious-weed seed in each one hundred grams of the seed of wheat, oats, rye, barley, vetches, and corn, or any seed of a size and weight similar to or greater than such seed.

(b) If any such seed contains more than 2 per centum by weight of weed seeds; or

(c) If any such seed contains less than 75 per centum of pure, live seed, or if any component of such seed present to the extent of 10 per centum or more contains less than 75 per centum of live seed; *Provided*, That when the Secretary of Agriculture shall find that any such seed or any kind of seed present to the extent of 10 per centum or more cannot be produced to contain 75 per centum of pure, live seed, he may set up such standard from time to time for pure, live seed as he finds can be produced. (Aug. 9, 1939, ch. 615, title III, § 304, 53 Stat. 1284.)

#### § 1585. Certain seeds required to be strained.

(a) Any seed containing 10 per centum or more of the seeds of alfalfa and/or red clover, subject to the provisions of section 1581

of this title, shall be stained in such manner and to such extent as the Secretary of Agriculture by regulation may prescribe and, when practicable, the color produced by such stain shall indicate the country or region of origin.

(b) Whenever the Secretary of Agriculture, after public hearing, determines that seed of alfalfa or red clover from any foreign country or region is not adapted for general agricultural use in the United States, he shall publish such determination. On and after the expiration of ninety days after the date of such publication, and until such determination is revoked, 10 per centum or more of the seeds in each container of such alfalfa or red clover seed, or any seed containing 10 per centum or more of such alfalfa or red clover seed, shall be stained a red color, in accordance with such regulations as the Secretary of Agriculture may prescribe.

(c) Whenever the origin of the seed of alfalfa or of red clover present in excess of 10 per centum in any seed subject to section 1581 of this title is unestablished, 10 per centum of the seed in each container shall be stained a red color.

(d) Whenever the seeds of alfalfa or of red clover of different origins are present in excess of 10 per centum in any seed subject to section 1581 of this title, and different colors are required by reason of such different origins, 10 per centum of the seed in each container shall be stained red.

(e) Whenever any seed required to be stained under the provisions of this chapter is commingled with seed of the same kind grown in the United States, the seed in each container thereof shall be stained 10 per centum red. (Aug. 9, 1939, ch. 615, title III, § 305, 53 Stat. 1284.)

#### **§ 1586. Certain acts prohibited.**

It shall be unlawful for any person—

(a) To sell or offer for sale—

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

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

(3) any seed which is prohibited entry under the provisions of this chapter;

(4) any seed which has been stained to resemble seed stained in accordance with the provisions of this chapter and the rules and regulations made and promulgated thereunder;

(5) any seed stained under the provisions of this chapter and the rules and regulations made and promulgated thereunder, when mixed with seed of the same kind produced in the United States;

(6) any seed stained with different colors;

(7) any seed stained under the provisions of this chapter, the labeling of which states that such seed is adapted.

(b) To change the proportion of seeds stained under the provisions of this chapter and the rules and regulations made and promulgated thereunder, or to alter, modify conceal, or remove in any manner or by any means the color of such stained seeds. (Aug. 9, 1939, ch. 615, title III, § 306, 53 Stat. 1285.)

#### **§ 1591. Delegation of duties.**

Any duties devolving upon the Secretary of Agriculture by

virtue of the provisions of this chapter 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. (Aug. 9, 1939, ch. 615, title IV, § 401, 53 Stat. 1285.)

#### **§ 1592. Rules and regulations.**

(a) The Secretary of Agriculture shall make such rules and regulations as he may deem necessary for the effective enforcement of this chapter, 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 subchapter III of this chapter.

(c) Prior to the promulgation of any rule or regulation under this chapter, 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. (Aug. 9, 1939, ch. 615, title IV, § 402, 53 Stat. 1285.)

#### **§ 1593. Standards, tests, tolerances.**

(a) The sampling, analyses, tests, or examinations of seeds made in connection with the administration of this chapter shall be made by methods set forth by rules and regulations prescribed under section 1592 of this title.

(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 chapter.

(c) For the purpose of section 1571 (b) of this title, 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. (Aug. 9, 1939, ch. 615, title IV, § 403, 53 Stat. 1285).

#### **§ 1594. Prohibition against alterations.**

No person shall detach, alter, deface, or destroy any label provided for in this chapter or the rules and regulations made and promulgated thereunder by the Secretary of Agriculture, or alter or substitute seed in a manner that may defeat the purpose of this chapter. (Aug. 9, 1939, ch. 615, title IV § 404, 53 Stat. 1286.)

#### **§ 1595. Seizure.**

(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 chapter 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 chapter, 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 chapter 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 chapter 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 nearly 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. (Aug. 9, 1939, ch. 615, title IV, § 405, 53 Stat. 1286.)

#### **§ 1596. Penalties.**

(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 \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000.

(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. (July 9, 1956, ch. 520, § 1, 70 Stat. 508.)

#### **§ 1597. Agent's acts as binding principal.**

When construing and enforcing the provisions of this chapter, 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. (Aug. 9, 1939, ch. 615, title IV, § 407, 53 Stat. 1286.)

#### **§ 1598. Notice of intention to prosecute.**

Before any violation of this chapter is reported by the Secretary

of Agriculture to any United States attorneys 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. (Aug. 9, 1939, ch. 615, title IV, § 408, 53 Stat. 1286.)

**§ 1599. Cease and desist proceedings.**

**(a) HEARING.**

Whenever the Secretary of Agriculture has reason to believe that any person has violated or is violating any of the provisions of this chapter 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 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) REPORT OF SECRETARY OF AGRICULTURE.**

If, after such hearing, the Secretary of Agriculture finds that the person has violated or is violating any provisions of the chapter 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) AMENDMENT OF REPORT.**

Until a transcript of the record in such hearing has been filed in a court of appeals, as provided in section 1600 of this title, 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) SERVICE.**

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 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 registering and mailing a copy thereof 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 registered and mailed as aforesaid shall be proof of the service of the same. (Aug. 9, 1939, ch. 615, title IV, § 409, 53 Stat. 1287.)

### **§ 1600. Appeal to court of appeals.**

An order made under section 1599 of this title 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 forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, and the report and order. If before such transcript 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 transcript 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, duly certified 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 affirms 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. (Aug. 9, 1939, ch. 615, title IV, § 410, 53 Stat. 1287.)

### **§ 1601. Enforcement of order.**

If any person against whom an order is issued under section

1599 of this title 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 certify and file with its application a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, the report, and the order. Upon such filing of the application and transcript 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 1600 of this title 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. (Aug. 9, 1939, ch. 615, title IV, § 411, 53 Stat. 1288.)

#### **§ 1602. Separability of proceedings.**

The institution of any one of the proceedings provided for in sections 1595, 1596, 1599-1601 of this title shall not bar institution of any of the others, except that action shall not be instituted under both subsections 1596 (a) and (b) of this title for the same cause of action. Nothing in this chapter shall be construed as requiring the Secretary of Agriculture to recommend prosecution, or institution of civil penalty proceedings, libel proceedings, cease-and-desist proceedings, or proceedings for the enforcement of a cease-and-desist order, for minor violations of this chapter or 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. (July 9, 1956, ch. 520, § 3, 70 Stat. 508.)

#### **§ 1603. Power to examine; witness fees and mileage.**

(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 power to hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, take depositions, 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. (Aug. 9, 1939, ch. 615, title IV, § 413, 53 Stat. 1289.)

#### **§ 1604. Publication.**

After judgment by the court, or the issuance of a cease-and-desist order, in any case arising under this chapter, notice thereof

shall be given by publication in such manner as may be prescribed in the rules and regulations made and promulgated under this chapter. (Aug. 9, 1939, ch. 615, title IV, § 414, 53 Stat. 1289.)

#### **§ 1605. Authorization for appropriations.**

(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 chapter.

(b) Funds appropriated for carrying into effect the purpose of this chapter shall be available for allotment by the Secretary of Agriculture to the bureaus and offices 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 or for services rendered or to be rendered in connection 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 carrying out plans for correlating the work of the various adhering governments on problems relating to seed analyses or other subjects which the Congress may determine to be necessary in the interest of international seed trade. (Aug. 9, 1939, ch. 615, title IV, § 415, 53 Stat. 1289; Sept. 21, 1944, ch. 412, title VII, § 701 (b), 58 Stat. 741.)

#### **§ 1606. Authorization for expenditures.**

The Secretary of Agriculture is authorized to make such expenditures for rent, outside of the District of Columbia, printing, binding, 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 chapter and other necessary expenses in the District of Columbia and elsewhere, and as may be appropriated for by the Congress. (Aug. 9, 1939, ch. 615, title IV, § 416, 53 Stat. 1289.)

#### **§ 1607. Cooperation with other agencies.**

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 chapter. (Aug. 9, 1939, ch. 615, title IV, § 417, 53 Stat. 1289.)

#### **§ 1608. Separability of provisions.**

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provisions to other persons or circumstances, shall not be affected thereby. (Aug. 9, 1939, ch. 615, title IV, § 418, 53 Stat. 1290.)

#### **§ 1609. Repeals.**

Sections 111-116 of this title are hereby repealed on the one

hundred and eightieth day after the passage of this chapter. *Provided, however,* That the notices with respect to imported alfalfa and red clover seed promulgated by the Secretary of Agriculture under the authority of sections 111–116 of this title, and now in effect, shall remain with the same full force and effect as if promulgated under this chapter. (Aug. 9, 1939, ch. 615, title IV, § 419, 53 Stat. 1290.)

## **Livestock and Livestock Products**

### **Packers and Stockyards Act, 1921**

(7 U.S.C. 181–229)

#### **§ 181. Short title of chapter.**

This chapter may be cited as the “Packers and Stockyards Act, 1921.” (Aug. 15, 1921, ch. 64, § 1, 42 Stat. 159.)

#### **§ 182. “Person”; “Secretary”; “meat food products”; “livestock”; “livestock products”; “commerce”; defined.**

When used in this chapter—

(1) The term “person” includes individuals, partnerships, corporations, and associations;

(2) The term “Secretary” means the Secretary of Agriculture;

(3) The term “meat food products” means all products and byproducts of the slaughtering and meat-packing industry—if edible;

(4) The term “livestock” means cattle, sheep, swine, horses, mules, or goats—whether live or dead;

(5) The term “livestock products” means all products and byproducts (other than meats and meat food products) of the slaughtering and meat-packing industry derived in whole or in part from livestock; and

(6) The term “commerce” means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. (Aug. 15, 1921, ch. 64, § 2(a), 42 Stat. 159.)

#### **§ 183. When transaction deemed in commerce; “State” defined.**

For the purpose of this chapter (but not in anywise limiting the definition in Section 182 of this title) a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the livestock and meat-packing industries, whereby livestock, meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs, are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of livestock within the State and the shipment outside the State of the products resulting from such slaughter. Articles normally in such current 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 chapter. For the purpose of this section the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nation. (Aug. 15, 1921, ch. 64, § 2, (b) 42 Stat. 159.)

### § 191. "Packer" defined.

When used in this chapter—

The term "packer" means any person engaged in the business (a) of buying livestock in commerce for purposes of slaughter, or (b) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (c) of manufacturing or preparing livestock products for sale or shipment in commerce, or (d) of marketing meats, meat food products, livestock products, dairy products, poultry, poultry products, or eggs, in commerce; but no person engaged in such business of manufacturing or preparing livestock products or in such marketing business shall be considered a packer unless—

(1) Such person is also engaged in any business referred to in clause (a) or (b) above, or unless

(2) Such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, by himself or through his agents, servants, or employees, any interest in any business referred to in clause (a) or (b) above, or unless

(3) Any interest in such business of manufacturing or preparing livestock products, or in such marketing business is owned or controlled, directly or indirectly, through stock ownership or control or otherwise, by himself or through his agents, servants, or employees, by any person engaged in any business referred to in clause (a) or (b) above, or unless

(4) Any person or persons jointly or severally, directly or indirectly, through stock ownership or control or otherwise, by themselves or through their agents, servants, or employees, own or control in the aggregate 20 per centum or more of the voting power or control in such business of manufacturing or preparing livestock products, or in such marketing business and also 20 per centum or more of such power or control in any business referred to in clause (a) or (b) above. (Aug. 15, 1921, ch. 64, § 201, 42 Stat. 160.)

### § 192. Unlawful practices enumerated.

It shall be unlawful for any packer or any live poultry dealer or handler to:

(a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in commerce; or

(b) Make or give, in commerce, any undue or unreasonable preference or advantage to any particular person or locality in any respect whatsoever, or subject, in commerce, any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(c) Sell or otherwise transfer to or for any other packer, or any live poultry dealer or handler, or buy or otherwise receive from or for any other packer or any live poultry dealer or handler any article for the purpose or with the effect of apportioning the

supply in commerce between any such packers, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly in commerce; or

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article in commerce, or of restraining commerce; or

(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices in commerce, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article in commerce, or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business in commerce, or (2) to apportion purchases or sales of any article in commerce, or (3) to manipulate or control price in commerce; or

(g) Conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by subdivisions (a), (b), (c), (d), or (e). (Aug. 15, 1921, ch. 64, § 202, 42 Stat. 161; Aug. 15, 1921, ch. 64, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

### **§ 193. General procedure before Secretary for violations; complaint; hearing; intervention; report and order; service of process.**

(a) Whenever the Secretary has reason to believe that any packer has violated or is violating any provision of sections 191-195 of this title, he shall cause a complaint in writing to be served upon the packer, stating his charges in that respect, and requiring the packer to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the packer 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 regulations as the Secretary may prescribe. Any person for good cause shown may on application be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the packer, be adjourned for a period not exceeding fifteen days.

(b) If, after such hearing, the Secretary finds that the packer has violated or is violating any provisions of sections 191-195 of this title 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 packer an order requiring such packer 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 a transcript of the record in such hearing has been filed in a court of appeals of the United States, as provided in

section 194 of this title, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the packer 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 under this section may be served in the same manner as provided in section 45 of Title 15. (Aug. 15, 1921, ch. 64, § 203, 42 Stat. 161.)

#### **§ 194. Conclusiveness of order; appeal and review; temporary and final injunction.**

(a) An order made under section 193 of this title shall be final and conclusive unless within thirty days after service the packer appeals to the court of appeals for the circuit in which he 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 packer will pay the costs of the proceedings if the court so directs.

(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, and the report and order. If before such transcript 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.

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

(d) The evidence so taken or admitted, duly certified 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.

(e) The court may affirm, modify, or set aside the order of the Secretary.

(f) 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 recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

(g) If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the packer, and his officers, directors, agents, and em-

ployees from violating the provisions of such order or such order as modified.

(h) The court of appeals shall have exclusive jurisdiction to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 347 of Title 28, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction unless so ordered by the Supreme Court. (Aug. 15, 1921, ch. 64, §204, 42 Stat. 162; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1948, ch. 646, § 32 (a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

### **§ 195. Punishment for violation of order.**

Any packer, or any officer, director, agent, or employee of a packer, who fails to obey any order of the Secretary issued under the provisions of section 193 of this title, or such order as modified—

(1) After the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if any such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts as provided in section 194 of this title; shall on conviction be fined not less than \$500 nor more than \$10,000, or imprisoned for not less than six months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense. (Aug. 15, 1921, ch. 64, § 205, 42 Stat. 163; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

### **§ 201. "Stockyard owner"; "stockyard services"; "market agency"; "dealer"; defined.**

(a) The term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard;

(b) The term "stockyard services" means services or facilities furnished at a stockyard in connection with the receiving, buying, or selling on a commission basis or otherwise, marketing, feeding, watering, holding, delivery, shipment weighing, or handling in commerce, of livestock;

(c) The term "market agency" means any person engaged in the business of (1) buying or selling in commerce livestock at a stockyard on a commission basis or (2) furnishing stockyard services; and

(d) The term "dealer" means any person, not a market agency, engaged in the business of buying or selling in commerce livestock at a stockyard, either on his own account or as the employee or agent of the vendor or purchaser. (Aug. 15, 1921, ch. 64, § 301, 42 Stat. 163.)

**§ 202. "Stockyard" defined; determination by Secretary as to particular yard.**

(a) When used in sections 201-203 and 205-217(a) of this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. Sections 201-203, 205-217 (a) of this title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passageways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provision of sections 201-203 and 205-217(a) of this title until like notice is given by the Secretary that such stockyard no longer comes within the foregoing definition. (Aug. 15, 1921, ch. 64, § 302, 42 Stat. 163.)

**§ 203. Registration of stockyard dealer or market agency; penalty for failure to register.**

After the expiration of thirty days after the Secretary has given public notice that any stockyard is within the definition of section 202 of this title by posting copies of such notice in the stockyard, no person shall carry on the business of a market agency or dealer at such stockyard unless he has registered with the Secretary under such rules and regulations as the Secretary may prescribe, his name and address, the character of business in which he is engaged, and the kinds of stockyard services, if any, which he furnishes at such stockyard. Whoever violates the provisions of this section shall be liable to a penalty of not more than \$500 for each such offense and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States. (Aug. 15, 1921, ch. 64, § 303, 42 Stat. 163.)

**§ 204. Bond and suspension of registrants.**

Hereafter the Secretary may require reasonable bonds from every market agency and dealer, under such rules and regulations as he may prescribe, to secure the performance of their obligations, and whenever, after due notice and hearing, the Secretary finds any registrant is insolvent or has violated any provisions of said Act he may issue an order suspending such registrant for a reasonable specified period. Such order of suspension shall take effect within not less than five days, unless suspended or modified or set aside by the Secretary or a court of competent jurisdiction. (July 12, 1943, ch. 215, § 1, 57 Stat. 422.)

**§ 205. General duty as to services.**

It shall be the duty of every stockyard owner and market agency

to furnish upon reasonable request, without discrimination, reasonable stockyard services at such stockyard: *Provided*, That in any State where the weighing of livestock at a stockyard is conducted by a duly authorized department or agency of the State, the Secretary, upon application of such department or agency, may register it as a market agency for the weighing of livestock received in such stockyard, and upon such registration such department or agency and the members thereof shall be amenable to all the requirements of this chapter; and upon failure of such department or agency or the members thereof to comply with the orders of the Secretary under this chapter he is authorized to revoke the registration of such department or agency and to enforce such revocation as provided in section 216 of this title. (Aug. 15, 1921, ch. 64, § 304, 42 Stat. 164; May 5, 1926, ch. 240, 44 Stat. 397.)

**§ 206. Rates and charges generally; discrimination.**

All rates or charges made for any stockyard services furnished at a stockyard by a stockyard owner or market agency shall be just, reasonable, and nondiscriminatory, and any unjust, unreasonable, or discriminatory rate or charge is prohibited and declared to be unlawful. (Aug. 15, 1921, ch. 64, § 305, 42 Stat. 164.)

**§ 207. Schedule of rates; filing and exhibition; change in rates; suspension; penalties.**

(a) Within sixty days after the Secretary has given public notice that a stockyard is within the definition of section 202 of this title, by posting copies of such notice in the stockyard, the stockyard owner and every market agency at such stockyard shall file with the Secretary, and print and keep open to public inspection at the stockyard, schedules showing all rates and charges for the stockyard services furnished by such person at such stockyard. If a market agency commences business at the stockyard after the expiration of such sixty days such schedules must be filed before any stockyard services are furnished.

(b) Such schedules shall plainly state all such rates and charges in such detail as the Secretary may require, and shall also state any rules or regulations which in any manner change, affect, or determine any part or the aggregate of such rates or charges, or the value of the stockyard services furnished. The Secretary may determine and prescribe the form and manner in which such schedules shall be prepared, arranged, and posted, and may from time to time make such changes in respect thereto as may be found expedient.

(c) No changes shall be made in the rates or changes so filed and published, except after ten days' notice to the Secretary and to the public filed and published as aforesaid, which shall plainly state the changes proposed to be made and the time such changes will go into effect; but the Secretary may for good cause shown, allow changes on less than ten days' notice, or modify the requirements of this section in respect to publishing, posting, and filing of schedules, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

(d) The Secretary may reject and refuse to file any schedule tendered for filing which does not provide and give lawful notice

of its effective date, and any schedule so rejected by the Secretary shall be void and its use shall be unlawful.

(e) Whenever there is filed with the Secretary any schedule, stating a new rate or charge, or a new regulation or practice affecting any rate or charge, the Secretary may either upon complaint or upon his own initiative without complaint, at once, and if he so orders without answer or other formal pleading by the person filing such schedule, but upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, charge, regulation, or practice, and pending such hearing and decision thereon the Secretary, upon filing with such schedule and delivering to the person filing it a statement in writing of his reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, regulation, or practice, but not for a longer period than thirty days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, regulation, or practice goes into effect, the Secretary may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing cannot be concluded within the period of suspension the Secretary may extend the time of suspension for a further period not exceeding thirty days, and if the proceeding has not been concluded and an order made at the expiration of such thirty days, the proposed change of rate, charge, regulation, or practice shall go into effect at the end of period.

(f) After the expiration of the sixty days referred to in subsection (a), no person shall carry on the business of a stockyard owner or market agency unless the rates and charges for the stockyard services furnished at the stockyard have been filed and published in accordance with this section and the orders of the Secretary made thereunder; nor charge, demand, or collect a greater or less or different compensation for such services than the rates and charges specified in the schedules filed and in effect at the time; nor refund or remit in any manner any portion of the rates or charges so specified (but this shall not prohibit a cooperative association of producers from bona fide returning to its members, on a patronage basis, its excess earnings on their livestock, subject to such regulations as the Secretary may prescribe); nor extend to any person at such stockyard any stockyard services except such as are specified in such schedules.

(g) Whoever fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall be liable to a penalty of not more than \$500 for each such offense, and not more than \$25 for each day it continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(h) Whoever willfully fails to comply with the provisions of this section or of any regulation or order of the Secretary made thereunder shall on conviction be fined not more than \$1,000, or imprisoned not more than one year, or both. (Aug. 15, 1921, ch. 64, § 306, 42 Stat. 164.)

### **§ 208. Unreasonable or discriminatory practices generally.**

It shall be the duty of every stockyard owner and market agency

to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to the furnishing of stockyard services, and every unjust, unreasonable, or discriminatory regulation or practice is prohibited and declared to be unlawful. (Aug. 15, 1921, ch. 64, § 307, 42 Stat. 165.)

**§ 209. Liability to individuals for violations; enforcement generally.**

(a) If any stockyard owner, market agency, or dealer violates any of the provisions of sections 205, 206, 207, or 208 of this title, or of any order of the Secretary made under sections 201–203 and 205–217(a) of this title, he shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of such violation.

(b) Such liability may be enforced either (1) by complaint to the Secretary as provided in section 210 of this title, or (2) by suit in any district court of the United States of competent jurisdiction; but this section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies. (Aug. 15, 1921, ch. 64, § 308, 42 Stat. 165.)

**§ 210. Proceedings before Secretary for violations generally; action to enforce order of Secretary.**

(a) Any person complaining of anything done or omitted to be done by any stockyard owner, market agency, or dealer (hereinafter in this section referred to as the “defendant”) in violation of the provisions of sections 205, 206, 207, or 208 of this title, or of an order of the Secretary made under sections 201–203 and 205–217(a) of this title, may, at any time within ninety days after the cause of action accrues, apply to the Secretary by petition which shall briefly state the facts, whereupon the complaint thus made shall be forwarded by the Secretary to the defendant, who shall be called upon to satisfy the complaint, or to answer it in writing, within a reasonable time to be specified by the Secretary. If the defendant within the time specified makes reparation for the injury alleged to be done he shall be relieved of liability to complainant only for the particular violation thus complained of. If the defendant does not satisfy the complaint within the time specified, or there appears to be any reasonable ground for investigating the complaint, it shall be the duty of the Secretary to investigate the matters complained of in such manner and by such means as he deems proper.

(b) The Secretary, at the request of the livestock commissioner, board of agriculture, or other agency of a State or Territory, having jurisdiction over stockyards in such State or Territory, shall investigate any complaint forwarded by such agency in like manner and with the same authority and powers as in the case of a complaint made under subsection (a).

(c) The Secretary may at any time institute an inquiry on his own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made to or before the Secretary, by any provision of sections 201–203, and 205–217(a) of this title, or concerning which any question may arise under any

of the provisions of sections 201-203 and 205-217(a) of this title, or relating to the enforcement of any of the provisions of sections 201-203 and 205-217(a) of this title. The Secretary shall have the same power and authority to proceed with any inquiry instituted upon his own motion as though he had been appealed to by petition, including the power to make and enforce any order or orders in the case or relating to the matter or thing concerning which the inquiry is had, except orders for the payment of money.

(d) No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

(e) If after hearing on a complaint the Secretary determines that the complainant is entitled to an award of damages, the Secretary shall make an order directing the defendant to pay to the complainant the sum to which he is entitled on or before a day named.

(f) If the defendant does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may within one year of the date of the order file in the district court of the United States for the district in which he resides or in which is located the principal place of business of the defendant or in any State court having general jurisdiction of the parties, a petition setting forth briefly the causes for which he claims damages, and the order of the Secretary in the premises. Such suit in the district court shall proceed in all respects like other civil suits for damages except that the findings and orders of the Secretary shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs in the district court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner finally prevails, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the suit. (Aug. 15, 1921, ch. 64, § 309, 42 Stat. 165.)

### **§ 211. Order of Secretary as to charges or practices; prescribing rates and practices generally.**

Whenever after full hearing upon a complaint made as provided in section 210 of this title, or after full hearing under an order for investigation and hearing under an order for investigation and hearing made by the Secretary on his own initiative, either in extension of any pending complaint or without any complaint whatever, the Secretary is of the opinion that any rate, charge, regulation, or practice of a stockyard owner or market agency, for or in connection with the furnishing of stockyard services, is or will be unjust, unreasonable, or discriminatory, the Secretary—

(a) May determine and prescribe what will be the just and reasonable rate or charge, or rates or charges, to be thereafter in such case observed as both the maximum and minimum to be charged, and what regulation or practice is or will be just, reasonable, and nondiscriminatory to be thereafter followed; and

(b) May make an order that such owner or operator (1) shall cease and desist from such violation to the extent to which the Secretary finds that it does or will exist; (2) shall not thereafter publish, demand, or collect any rate or charge for the furnishing of stockyard services more or less than the rate or charge so

prescribed; and (3) shall conform to and observe the regulation or practice so prescribed. (Aug. 15, 1921, ch. 64, § 310, 42 Stat. 166; Aug. 10, 1939, ch. 663, 53 Stat. 1351.)

**§ 212. Prescribing rates and practices to prevent discrimination between intrastate and interstate commerce.**

Whenever in any investigation under the provisions of sections 201–203 and 205–217(a) of this title, or in any investigation instituted by petition of the stockyard owner or market agency concerned, which petition is hereby authorized to be filed, the Secretary after full hearing finds that any rate, charge, regulation, or practice of any stockyard owner or market agency, for or in connection with the buying or selling on a commission basis or otherwise, receiving, marketing, feeding, holding, delivery, shipment, weighing, or handling, not in commerce, of livestock, causes any undue or unreasonable advantage, prejudice, or preference as between persons or localities in intrastate commerce in livestock on the one hand and interstate or foreign commerce in livestock on the other hand, or any undue, unjust, or unreasonable discrimination against interstate or foreign commerce in livestock, which is forbidden and declared to be unlawful, the Secretary shall prescribe the rate, charge, regulation, or practice thereafter to be observed, in such manner as, in his judgment, will remove such advantage, preference, or discrimination. Such rates, charges, regulations, or practices shall be observed while in effect by the stockyard owners or market agencies parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding. (Aug. 15, 1921, ch. 64, § 311, 42 Stat. 167.)

**§ 213. Prevention of unfair, discriminatory, or deceptive practices.**

(a) It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice or device in connection with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling, in commerce at a stockyard, of livestock.

(b) Whenever complaint is made to the Secretary by any person, or whenever the Secretary has reason to believe, that any stockyard owner, market agency, or dealer is violating the provisions of subsection (a), the Secretary after notice and full hearing may make an order that he shall cease and desist from continuing such violation to the extent that the Secretary finds that it does or will exist. (Aug. 15, 1921, ch. 64, § 312, 42 Stat. 167.)

**§ 214. When orders effective generally.**

Except as otherwise provided in this chapter all orders of the Secretary under sections 201–203 and 205–17(a) of this title, other than orders for the payment of money, shall take effect within such reasonable time, not less than five days, as is prescribed in the order, and shall continue in force until his further order, or for a specified period of time, according as is prescribed in the order, unless such order is suspended or modified or set aside

by the Secretary or is suspended or set aside by a court of competent jurisdiction. (Aug. 15, 1921, ch. 64, § 313, 42 Stat. 167.)

**§ 215. Failure to obey orders generally; punishment.**

(a) Any stockyard owner, market agency, or dealer who knowingly fails to obey any order made under the provisions of sections 211, 212, or 213 of this title shall forfeit to the United States the sum of \$500 for each offense. Each distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense. Such forfeiture shall be recoverable in a civil suit in the name of the United States.

(b) It shall be the duty of the various United States attorneys, under the direction of the Attorney General, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. (Aug. 15, 1921, ch. 64, § 314, 42 Stat. 167. Act of June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

**§ 216. Court proceedings to enforce orders; injunction.**

If any stockyard owner, market agency, or dealer fails to obey any order of the Secretary other than for the payment of money while the same is in effect, the Secretary, or any party injured thereby, or the United States by its Attorney General, may apply to the district court for the district in which such person has his principal place of business for the enforcement of such order. If after hearing the court determines that the order was lawfully made and duly served and that such person is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such person, his officers, agents, or representatives from further disobedience of such order or to enjoin upon him or them obedience to the same. (Aug. 15, 1921, ch. 64, § 315, 42 Stat. 167.)

**§ 217. Proceedings for suspension of orders.**

For the purposes of sections 201–203 and 205–217(a) of this title, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of sections 201–203 and 205–217(a) of this title, and to any person subject to the provisions of sections 201–203 and 205–217(a) of this title. (Aug. 15, 1921, ch. 64, § 316, 42 Stat. 168.)

**§ 217a. Brand inspection fees by registered market agencies.**

(a) The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this chapter, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands,

marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

(b) The provisions of sections 201-203 and 205-217a of this title relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

(c) Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

(d) The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review. (Aug. 15, 1921, ch. 64, title III, § 317, as added June 19, 1942, ch. 421, 56 Stat. 372.)

### **§ 218. Unfair, deceptive, and fraudulent practices; necessity to curb.**

The handling of the great volume of live poultry required as an article of food for the inhabitants of large centers of population is attendant with various unfair, deceptive, and fraudulent practices and devices, resulting in the producers sustaining sundry losses and receiving prices far below the reasonable value of their live poultry in comparison with prices of other commodities and in unduly and arbitrarily enhancing the cost to the consumers. Such practices and devices are an undue restraint and unjust burden upon interstate commerce and are a matter of such grave concern to the industry and to the public as to make it imperative that steps be taken to free such commerce from such burden and restraint and to protect producers and consumers against such practices and devices. (Aug. 15, 1921, ch. 64, § 501, as added Aug. 14, 1935, ch. 532, 49 Stat. 648.)

**§ 218a. Designation of cities and markets where unfair practices exist; licenses required; application for and issuance by Secretary of Agriculture; penalty for dealing without license.**

(a) The Secretary of Agriculture is authorized and directed to ascertain from time to time and to designate the cities where such practices and devices exist to the extent stated in section 218 of this title and the markets and places in or near such cities where live poultry is received, sold, and handled in sufficient quantity to constitute an important influence on the supply and price of live poultry and poultry products. On and after the effective date of such designation, which shall be publicly announced by the Secretary by publication in one or more trade journals or in the daily press or in such other manner as he may determine to be adequate for the purpose approximately thirty days prior to such date, no person other than packers as defined in section 191 of this title and railroads shall engage in, furnish, or conduct any service or facility in any such designated city, place, or market in connection with the receiving, buying, or selling, on a commission basis or otherwise, marketing, feeding, watering, holding, delivering, shipping, weighing, unloading, loading on trucks, trucking, or handling in commerce of live poultry without a license from the Secretary of Agriculture as herein authorized valid and effective at such time. Any person who violates any provision of this subsection shall be subject to a fine of not more than \$500 or imprisonment of not more than six months, or both.

(b) Any person desiring a license shall make application to the Secretary, who may by regulation prescribe the information to be contained in such application. The Secretary shall issue a license to any applicant furnishing the required information unless he finds after opportunity for a hearing that such applicant is unfit to engage in the activity for which he has made application by reason of his having at any time within two years prior to his application engaged in any practice of the character prohibited by this chapter or because he is financially unable to fulfill the obligations that he would incur as a licensee. (Aug. 15, 1921, ch. 64, § 502, as added Aug. 14, 1935, ch. 532, 49 Stat. 648.)

**§ 218b. "Live poultry dealer" defined.**

The term "live poultry dealer" means any person engaged in the business of buying or selling live poultry in commerce for purposes of slaughter either on his own account or as the employee or agent of the vendor or purchaser. (Aug. 15, 1921, ch. 64 § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

**§ 218c. Application of other provisions of chapter to sections 218–218d.**

The provisions of sections 206–217 and 221, 222, 223, and 224 of this title shall be applicable to licensees with respect to services and facilities covered by sections 218–218d of this title and the rates, charges, and rentals therefor except that the schedules of rates, charges, and rentals shall be posted in the place of business of the licensee as prescribed in regulations made by the Secretary. (Aug. 15, 1921, ch. 64, § 504, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

### **§ 218d. Suspension and revocation of licenses.**

Whenever the Secretary determines, after opportunity for a hearing, that any licensee has violated or is violating any of the provisions of sections 218–218d of this title, he may publish the facts and circumstances of such violation and by order suspend the license of such offender for a period not to exceed ninety days and if the violation is flagrant or repeated he may by order revoke the license of the offender. (Aug. 15, 1921, ch. 64, § 505, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

### **§ 221. Accounts and records of business; punishment for failure to keep.**

Every packer or any live poultry dealer or handler, stockyard owner, market agency, and dealer shall keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business, including the true ownership of such business by stockholding or otherwise. Whenever the Secretary finds that the accounts, records, and memoranda of any such person do not fully and correctly disclose all transactions involved in his business, the Secretary may prescribe the manner and form in which such accounts, records, and memoranda shall be kept, and thereafter any such person who fails to keep such accounts, records, and memoranda in the manner and form prescribed or approved by the Secretary shall upon conviction be fined not more than \$5,000, or imprisoned not more than three years, or both. (Aug. 15, 1921, ch. 64, § 401, 42 Stat. 168; Aug. 15, 1921, ch. 64, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

### **§ 222. Federal Trade Commission powers adopted for enforcement of chapter.**

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the provisions, including penalties) of sections 46, 48, 49, and 50 of Title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this chapter and to any person subject to the provisions of this chapter, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States. (Aug. 15, 1921, ch. 64, § 402, 42 Stat. 168; Aug. 15, 1921, ch. 64, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

### **§ 223. Responsibility of principal for act or omission of agent.**

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any packer or any live poultry dealer or handler, stockyard owner, market agency, or dealer, within the scope of his employment or office, shall in every case also be deemed the act, omission, or failure of such packer, stockyard owner, market agency, or dealer, as well as that of such agent, officer, or other person. (Aug. 15, 1921, ch. 64, § 403, 42 Stat. 168; Aug. 15, 1921, ch. 64, § 503, as added Aug. 14, 1935, ch. 532, 49 Stat. 649.)

**§ 224. Attorney General to institute court proceedings for enforcement.**

The Secretary may report any violation of this chapter to the Attorney General of the United States, who shall cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay. (Aug. 15, 1921, ch. 64, § 404, 42 Stat. 168; Aug. 15, 1921, ch. 64, § 503, as amended Aug. 14, 1935, ch. 532, 49 Stat. 649.)

**§ 225. Laws unaffected.**

Nothing contained in this chapter, except as otherwise provided herein, shall be construed—

(a) To prevent or interfere with the enforcement of, or the procedure under, the provisions of sections 1–27, 61–65 of Title 15, or the provisions of chapter 1, Title 49, or

(b) To alter, modify, or repeal such sections or any part or parts thereof, or

(c) To prevent or interfere with any investigation, proceeding, or prosecution begun and pending on August 15, 1921. (Aug. 15, 1921, ch. 64, § 405, 42 Stat. 168.)

**§ 226. Powers of Interstate Commerce Commission unaffected.**

Nothing in this chapter shall affect the power or jurisdiction of the Interstate Commerce Commission, nor confer upon the Secretary concurrent power or jurisdiction over any matter within the power or jurisdiction of such commission. (Aug. 15, 1921, ch. 64, § 406, 42 Stat. 169.)

**§ 227. Powers of Federal Trade Commission restricted.**

So long as this chapter remains in effect, the Federal Trade Commission shall have no power or jurisdiction so far as relating to any matter which by this chapter is made subject to the jurisdiction of the Secretary except when the Secretary of Agriculture, in the exercise of his duties hereunder, shall request of the said Federal Trade Commission that it make investigations and report in any case. (Aug. 15, 1921, ch. 64, § 406, 42 Stat. 169.)

**§ 228. General authority of Secretary as to rules, regulations, and expenditures.**

The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this chapter and may cooperate with any department or agency of the Government any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress, and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purpose. (Aug. 15, 1921, ch. 64, § 407, 42 Stat. 169.)

## § 229. Effect of partial invalidity.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby. (Aug. 15, 1921, ch. 64, § 408, 42 Stat. 169.)

## Wool Standards Act

(7 U.S.C. 415b-d)

### § 415b. Wool standards; appropriation of certain funds.

There is hereby authorized to be appropriated for expenditure by the Secretary of Agriculture, for the purposes stated in section 415c of this title, all funds collected by suit, or otherwise, pursuant to appropriations for the completion of the work of the domestic wool section of the War Industries Board, and for enforcing Government regulations for handling the wool clip of 1918 as established by the wool division of said board, pursuant to the Executive order dated December 31, 1918, transferring such work to the Bureau of Markets, now a part of the Bureau of Agricultural Economics of the Department of Agriculture, and for continuing as far as practicable the distribution among the growers of the wool clip of 1918 of all sums collected or recovered with or without suit by the Government from all persons, firms, or corporations which handled any part of the wool clip of 1918, which he finds it impracticable to distribute among said growers, provided that not to exceed \$50,000 may be expended in any fiscal year. (May 17, 1928, ch. 602, § 1, 45 Stat. 593.)

### § 415c. Same; use made of funds; charge for wool grading and forms of grades.

The funds referred to in section 415b of this title may be used for the purpose of acquiring and diffusing among the people of the United States useful information relative to the standardization, grading, preparation for market, marketing, utilization, transportation, handling, and distribution of wool, and of approved methods and practices relative thereto, including the demonstration and promotion of the use of grades for wool in accordance with standards therefor which the Secretary of Agriculture is hereby authorized to establish. Said funds may be used for the grading of wool, and for such grading or other service rendered under Sections 415b and 415d of this Title reasonable fees may be charged, and *Provided further*, That after May 17, 1928, reasonable charges may be made for practical forms of grades for wool. (May 17, 1928, ch. 602, § 2, 45 Stat. 593.)

### § 415d. Same; rules and regulations; deposit of receipts.

The Secretary of Agriculture may make such rules and regulations as he deems advisable for carrying out any of the provisions of sections 415b and 415c of this title. All receipts under sections 415b-415d of this title shall be deposited in the Treasury to the credit of miscellaneous receipts. (May 17, 1928, ch. 602, § 3, 45 Stat. 594.)

**Naval Stores**  
**The Naval Stores Act**  
(7 U.S.C. 91-99)

**§ 91. Short title of chapter.**

For convenience of reference, this chapter may be designated and cited as "The Naval Stores Act." (Mar. 3, 1923, ch. 217, § 1, 42 Stat. 1435.)

**§ 92. Definitions.**

When used in this chapter—

- (a) "Naval stores" means spirits of turpentine and rosin.
- (b) "Spirits of turpentine" includes gum spirits of turpentine and wood turpentine.
- (c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.
- (d) "Wood turpentine" includes steam distilled wood turpentine and destructively distilled wood turpentine.
- (e) "Steam distilled wood turpentine" means wood turpentine distilled with steam from the oleoresin within or extracted from the wood.
- (f) "Destructively distilled wood turpentine" means wood turpentine obtained in the destructive distillation of the wood.
- (g) "Rosin" includes gum rosin and wood rosin.
- (h) "Gum rosin" means rosin remaining after the distillation of steam distilled wood turpentine.
- (j) "Package" means any container of naval stores, and includes barrel, tank, tank car, or other receptacle.
- (k) "Person" includes partnerships, associations, and corporations, as well as individuals.
- (l) The term "commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession or the District of Columbia. (Mar. 3, 1923, ch. 217, § 2, 42 Stat. 1435.)

**§ 93. Establishment of official naval stores standards.**

For the purposes of this chapter the kinds of spirits of turpentine defined in subdivisions (c), (e) and (f) of section 92 of this title and the rosin types, prepared prior to March 3, 1923, and recommended under existing laws, by or under authority of the Secretary of Agriculture, are hereby made the standards for naval stores until otherwise prescribed as hereinafter provided. The Secretary of Agriculture is authorized to establish and promulgate standards for naval stores for which no standards are herein provided, after at least three months' notice of the proposed standard shall have been given to the trade, so far as practicable, and due hearings or reasonable opportunities to be heard shall have been afforded those favoring or opposing the same. No such standard shall become effective until after three months from the date of the promulgation thereof. Any standard made by this

chapter or established and promulgated by the Secretary of Agriculture in accordance therewith may be modified by said Secretary whenever, for reasons and causes deemed by him sufficient, the interests of the trade shall so require, after at least six months' notice of the proposed modifications shall have been given to the trade, so far as practicable, and due hearings or reasonable opportunities to be heard shall have been afforded those favoring or opposing the same; and no such modifications so made shall become effective until after 6 months from the date when made.

The various grades of rosin, from highest to lowest, shall be designated, unless and until changed, as hereinbefore provided, by the following letters, respectively: X, WW, WG, N, M, K, I, H, G, F, E, D, and B, together with the designation "gum rosin" or "wood rosin", as the case may be.

The standards herein made and authorized to be made shall be known as the "Official Naval Stores Standards of the United States," and may be referred to by the abbreviated expression "United States Standards", and shall be the standards by which all naval stores in commerce shall be graded and described. (Mar. 3, 1923, ch. 217, § 3, 42 Stat. 1435.)

#### **§ 94. Supplying duplicates of standards; examination, etc., of naval stores and certification thereof.**

The Secretary of Agriculture shall provide, if practicable, any interested persons with duplicates of the official naval stores standards of the United States upon request accompanied by tender of satisfactory security for the return thereof, under such regulations as he may prescribe. The Secretary of Agriculture shall examine, if practicable, upon request of any interested person, any naval stores and shall analyze, classify, or grade the same on tender of the cost thereof as required by him, under such regulations as he may prescribe. He shall furnish a certificate showing the analysis, classification, or grade of such naval stores, which certificate shall be prima facie evidence of the analysis, classification, or grade of such naval stores and of the contents of any package from which the same may have been taken, as well as of the correctness of such analysis, classification, or grade and shall be admissible as such in any court. (Mar. 3, 1923, ch. 217, § 4, 42 Stat. 1436.)

#### **§ 95. Prohibition of acts deemed injurious to commerce in naval stores.**

The following acts are hereby declared injurious to commerce in naval stores and are hereby prohibited and made unlawful:

(a) The sale in commerce of any naval stores, or of anything offered as such, except under or by reference to United States Standards.

(b) The sale of any naval stores under or by reference to United States standards which is other than what it is represented to be.

(c) The use in commerce of the word "turpentine" or the word "rosin," singly or with any other word or words, or of any compound, derivative, or imitation of either such word, or of any

misleading word, or of any word, combination of words, letter, or combination of letters, provided herein or by the Secretary of Agriculture to be used to designate naval stores of any kind or grade, in selling, offering for sale, advertising, or shipping anything other than naval stores of the United States standards.

(d) The use in commerce of any false, misleading, or deceitful means or practice in the sale of naval stores or of anything offered as such. (Mar. 3, 1923, ch. 217, § 5, 42 Stat. 1436.)

#### **§ 96. Punishment for violation of prohibition.**

Any person willfully violating any provision of section 95 of this title shall, on conviction, be punished for each offense by a fine not exceeding \$5,000 or by imprisonment for not exceeding one year, or both. (Mar. 3, 1923, ch. 217, § 6, 42 Stat. 1436.)

#### **§ 97. Purchase and analysis by Secretary of samples of spirits of turpentine to detect violations; reports to Department of Justice; publication of results of analysis, etc.**

The Secretary of Agriculture is hereby authorized to purchase from time to time in open market samples of spirits of turpentine and of anything offered for sale as such for the purpose of analysis, classification, or grading and of detecting any violation of this chapter. He shall report to the Department of Justice for appropriate action any violation of this chapter coming to his knowledge. He is also authorized to publish from time to time results of any analysis, classification, or grading of spirits of turpentine and of anything offered for sale as such made by him under any provision of this chapter. (Mar. 3, 1923, ch. 217, § 7, 42 Stat. 1436.)

#### **§ 98. Appropriation for and expenses in enforcement of chapter.**

There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for the administration and enforcement of this chapter, and within the limits of such sums the Secretary of Agriculture is authorized to employ such persons and means and make such expenditures for printing, telegrams, telephones, books of reference, periodicals, furniture, stationery, office equipment, travel and supplies, and all other expenses as shall be necessary in the District of Columbia and elsewhere. (Mar. 3, 1923, ch. 217, § 8, 42 Stat. 1436.)

#### **§ 99. Effect of partial invalidity of chapter.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby. (Mar. 3, 1923, ch. 217, § 9, 42 Stat. 1437.)

# Tobacco

## The Tobacco Inspection Act

(7 U.S.C. 511-511q)

### § 511. Definitions.

When used in this chapter—

(a) "Person" includes partnerships, associations, and corporations, as well as individuals.

(b) "Secretary" means the Secretary of Agriculture of the United States.

(c) "Inspector" means any person employed, licensed, or authorized by the Secretary to determine and certify the type, grade, condition, or other characteristics of tobacco.

(d) "Sampler" means any person employed, licensed, or authorized by the Secretary to select, tag, and seal official samples of tobacco.

(e) "Weigher" means any person employed, licensed, or authorized by the Secretary to weigh and certify the weight of tobacco.

(f) "Tobacco" means tobacco in its unmanufactured form.

(g) "Auction market" means a market or place to which tobacco is delivered by the producers thereof, or their agents, for sale at auction through a warehouseman or commission merchant.

(h) Words in the singular form shall be deemed to import the plural form when necessary.

(i) "Commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purposes of this chapter (but not in any wise limiting the foregoing definition) a transaction in respect to tobacco shall be considered to be in commerce if such tobacco is part of that current of commerce usual in the tobacco industry whereby tobacco or products manufactured therefrom are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State or for manufacture within the State and the shipment outside the State of the products resulting from such manufacture. Tobacco normally in such current 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 chapter. For the purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations. (Aug. 23, 1935, ch. 623, § 1, 49 Stat. 731.)

### § 511a. Purpose of chapter.

Transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; such transactions are carried on by tobacco producers

generally and by persons engaged in the business of buying and selling tobacco in commerce; the classification of tobacco according to type, grade, and other characteristics affects the prices received therefor by producers; without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interest therein. (Aug. 23, 1935, ch. 623, § 2, 49 Stat. 731.)

**§ 511b. Official standards for classification; tentative standards; modification.**

The Secretary is authorized to investigate the sorting, handling, conditioning, inspection, and marketing of tobacco from time to time, and to establish standards for tobacco by which its type, grade, size, condition, or other characteristics may be determined, which standards shall be the official standards of the United States, and shall become effective immediately or upon a date specified by the Secretary: *Provided*, That the Secretary may issue tentative standards for tobacco prior to the establishment of official standards therefor, and he may modify any standards established under authority of this chapter whenever, in his judgment, such action is advisable. (Aug. 23, 1935, ch. 623, § 3, 49 Stat. 732.)

**§ 511c. Same; demonstration; samples; cost.**

The Secretary is authorized to demonstrate the official standards; to prepare and distribute, upon request, samples, illustrations, or sets thereof; and to make reasonable charges therefor: *Provided*, That in no event shall charges be in excess of the cost of said samples, illustrations, and services so rendered. (Aug. 23, 1935, ch. 623, § 4, 49 Stat. 732.)

**§ 511d. Designation of markets; manner.**

The Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the

Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this chapter, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: *Provided*, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. No fee or charge shall be imposed or collected for inspection or certification under this section at any designated auction market. Nothing contained in this chapter shall be construed to prevent transactions in tobacco at markets not designated by the Secretary or at designated markets where the Secretary has suspended the requirement of inspection or to authorize the Secretary to close any market. (Aug. 23, 1935, ch. 623, § 5, 49 Stat. 732.)

**§ 511e. Sampling and weighing; cost; disposition of moneys received; expenses; purpose of section.**

The Secretary, independently or in cooperation with other branches of the Government, State agencies, or persons, whether operating in one or more jurisdictions, is authorized to employ and/or license competent persons as samplers to take official samples of tobacco, or as weighers to weigh and certify the weight of tobacco, or as inspectors of tobacco to determine and certify, upon the request of the owner or other financially interested person, the type, grade, weight, condition, and/or such other facts as the Secretary may deem necessary.

The Secretary is authorized to fix and collect such fees or charges in the administration of this section as he may deem reasonable, and the moneys collected, except as provided in this section, shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts. Fees or charges collected under an agreement with a State, municipality, or person, or by an individual licensed to inspect or weigh or sample tobacco under this chapter, may be disposed of in accordance with the terms of such agreement or license. Charges for expenses for travel and subsistence incurred by inspectors or weighers or samplers employed by the Secretary when required to be paid by the applicant for service, may be credited to the appropriation, or any other funds authorized in this chapter from which they were paid.

This section is intended merely to provide for the furnishing of services upon request of the owner or other person financially interested in tobacco to be sampled, inspected, or weighed and shall not be construed otherwise. (Aug. 23, 1935, ch. 623, § 6, 49 Stat. 732.)

**§ 511f. Reinspection and appeal inspection; certificate as evidence.**

The Secretary shall provide for such reinspection or appeal

inspection of tobacco as he may deem necessary for the confirmation or reversal of certificates issued under this chapter. Each inspection certificate issued under this chapter, unless invalidated or superseded in accordance with the regulations of the Secretary, shall be received in all courts and by all officers and employees of the United States as prima facie evidence of the truth of the statements therein contained. (Aug. 23, 1935, ch. 623, § 7, 49 Stat. 733.)

#### **§ 511g. Placing of grade on warehouse tickets, etc.; form.**

Warehousemen shall provide space on warehouse tickets or other tags or labels used by them for showing the grade of the lot covered thereby as determined by an authorized tobacco inspector under this chapter. The Secretary may prescribe, by regulation, the form in which such certification of grade shall be shown, and may require that a copy of such warehouse ticket, tag, or label shall be furnished to the Secretary. (Aug. 23, 1935, ch. 623, § 8, 49 Stat. 733.)

#### **§ 511h. Publication of information relating to tobacco.**

The Secretary is authorized to collect, publish, and distribute, by telegraph, mail, or otherwise without cost to the grower, timely information on the market supply and demand, location, disposition, quality, condition, and market prices for tobacco. (Aug. 23, 1935, ch. 623, § 9, 49 Stat. 733.)

#### **§ 511i. Offenses.**

It shall be unlawful—

(a) For any person to use the words “United States”, “Government”, or “Federal”, or any abbreviation thereof, in, or in connection with, any statement relating to the grade of tobacco when such grade is not, in fact, one of the grades for tobacco according to the standards of the United States.

(b) For any person falsely to make, issue, alter, forge, or counterfeit, or aid, cause, procure, or assist in or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate, stamp, tag, seal, label, or other writing purporting to be issued or authorized under this chapter.

(c) For any person, not an authorized inspector under this chapter, to issue a certificate or report stating the type, grade, size, or condition of any lot of tobacco to be in accordance with the standards of the United States therefore which is of such color, size, arrangement, or wording as to be mistaken for a certificate issued under this chapter, unless such certificate states in prominent letters in its heading that it is not issued under authority of the United States.

(d) For any person employed, designated, or licensed by the Secretary as an inspector, sampler, or weigher of tobacco under this chapter knowingly to inspect, sample, or weigh improperly, or to issue any false certificate under this chapter, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as an inspector, sampler or weigher.

(e) For any person improperly to influence or to attempt improperly to influence or forcibly to assault, resist, impede, or in-

terfere with any inspector, sampler, weigher, or other person employed, designated, or licensed by the Secretary in the execution of his duties under this chapter: *Provided, however,* That nothing herein shall operate to prevent the owner of tobacco from appealing or protesting, in accordance with regulations of the Secretary, the grade certified for his tobacco.

(f) For any person falsely to represent or otherwise indicate that he is authorized by the Secretary to inspect, sample, or weigh tobacco under this chapter.

(g) For any person to substitute, or attempt to substitute, following inspection or sampling or weighing under this chapter, other tobacco for tobacco actually inspected or sampled or weighed, or in the case of tobacco inspected in auction or warehouses for any person not so authorized by the Secretary to remove any certificate of grade from any lot of tobacco prior to the sale of such lot.

(h) For any person falsely to represent that tobacco has been inspected, sampled, or weighed under this chapter; or knowingly to have made any false representation concerning tobacco inspected under this chapter; or knowing that tobacco is to be offered for inspection or sampling under this chapter to load, pack, or arrange such tobacco in such manner as knowingly to conceal foreign matter or tobacco of inferior grade, quality, or condition; or for any person knowing that tobacco has been so loaded, packed, or arranged, to offer it for inspection or sampling without disclosing such knowledge to the inspector or sampler before inspection or sampling.

(i) For any person willfully to alter an official sample of tobacco by removing or plucking leaves or otherwise, or for any person knowing that an official sample of tobacco has been so altered, thereafter to represent such sample as an official sample. (Aug. 23, 1935, ch. 623, § 10, 49 Stat. 733.)

#### **§ 511j. Same; publication of facts.**

The Secretary is authorized to publish the facts regarding any violation of this chapter. (Aug. 23, 1935, ch. 623, § 11, 49 Stat. 734.)

#### **§ 511k. Same; penalty.**

Any person violating any provision of sections 511d and 511i of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than one year, or both. (Aug. 23, 1935, ch. 623, § 12, 49 Stat. 734.)

#### **§ 511l. Act of agent as that of principal.**

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by an association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the association, partnership, corporation, or firm, as well as that of the person. (Aug. 23, 1935, ch. 623, § 13, 49 Stat. 734.)

**§ 511m. Regulation; hearings; employees; expenditures; appropriation.**

The Secretary is authorized to make such rules and regulations and hold such hearings as he may deem necessary to effectuate the purposes of this chapter and may cooperate with any other Department or agency of the Government; any State, territory, district, or possession, or department, agency, or political subdivision thereof; purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations; or any person, whether operating in one or more jurisdictions in carrying on the work herein authorized; and he shall have the power to appoint, suspend, remove and fix the compensation of all officers, employees, and licensees not in conflict with existing law. The Secretary is authorized to make such expenditures for rent outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, tobacco for use in preparing and demonstrating standards, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere, and as may be appropriated for by Congress; and 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 chapter. (Aug. 23, 1935, ch. 623, § 14, 49 Stat. 734. Oct. 28, 1949, ch. 782, Title XI, § 1106 (a), 63 Stat. 792.)

**§ 511n. Hearings; examination of witnesses; refusal to testify or produce evidence.**

In carrying on the work authorized in this chapter, the Secretary, or any officer or employee designated by him for such purpose, shall have power to hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, and require the production of books, records, accounts, memoranda, and papers. Upon refusal by any person to appear, testify, or produce books, records, accounts, memoranda, and papers in response to a subpoena, the proper United States district court shall have power to compel obedience thereto. (Aug. 23, 1935, ch. 623, § 15, 49 Stat. 735.)

**§ 511o. Separability clause.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and of the application of such provision to other persons and circumstances shall not be affected thereby. (Aug. 23, 1935, ch. 623, § 16, 49 Stat. 735.)

**§ 511p. Execution of duties of Secretary of Agriculture by designated agents.**

Any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this chapter 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. (Aug. 23, 1935, ch. 623, § 17, 49 Stat. 735.)

**§ 511q. Short title.**

This chapter may be cited as "The Tobacco Inspection Act." (Aug. 23, 1935, ch. 623, § 18, 49 Stat. 735.)

**Tobacco Plant and Seed Exportation Act**

(7 U.S.C. 516-517)

**§ 516. Exportation of seeds or plants; permits.**

It shall be unlawful to export any tobacco seed and/or live tobacco plants from the United States or any Territory subject to the jurisdiction thereof, to any foreign country, port, or place, unless such exportation and/or transportation is in pursuance of a written permit granted by the Secretary of Agriculture. Such permits shall be granted by the Secretary only upon application therefor and after proof satisfactory to him that such seed or plants are to be used for experimental purposes only. (June 5, 1940, ch. 232, § 1, 54 Stat. 231.)

**§ 517. Same; penalties.**

Any persons violating any of the provisions of section 516 of this title shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment. (June 5, 1940, ch. 232, § 2, 54 Stat. 231.)

**Warehousing and Transportation**

**United States Warehouse Act**

(7 U.S.C. 241-273)

**§ 241. Short title of chapter.**

This chapter shall be known by the short title of "United States Warehouse Act." (Aug. 11, 1916, ch. 313, part C, § 1, 39 Stat. 486.)

**§ 242. Terms defined; "warehouse", "person", "warehouseman", "receipt."**

The term "warehouse" as used in this chapter shall be deemed to mean every building, structure, or other protected enclosure in which any agricultural product is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which any agricultural product is or may be stored. As used in this chapter, "person" includes a corporation or partnership or two or more persons having a joint or common interest; "warehouseman" means a person lawfully engaged in the business of storing agricultural products; and "receipt" means a warehouse receipt. (Aug. 11, 1916, ch. 313, part C, § 2, 39 Stat. 486; Feb. 23, 1923, ch. 106, 42 Stat. 1282.)

**§ 243. Investigation of warehousing, weighing, classifying, and certification of agricultural products; inspection of warehouses; prescribing duties of warehousemen.**

The Secretary of Agriculture is authorized to investigate the storage, warehousing, classifying according to grade and other-

wise, weighing, and certification of agricultural products; upon application to him by any person applying for license to conduct a warehouse under this chapter, to inspect such warehouse or cause it to be inspected; at any time, with or without application to him, to inspect or cause to be inspected all warehouses licensed under this chapter; to determine whether warehouses for which licenses are applied for or have been issued under this chapter are suitable for the proper storage of any agricultural product or products; to classify warehouses licensed or applying for a license in accordance with their ownership, location, surroundings, capacity, conditions, and other qualities, and as to the kinds of licenses issued or that may be issued for them pursuant to this chapter; and to prescribe, within the limitations of this chapter, the duties of the warehousemen conducting warehouses licensed under this chapter with respect to their care of and responsibility for agricultural products stored therein. (Aug. 11, 1916, ch. 313, part C, § 3, 39 Stat. 486.)

#### **§ 244. License to warehouseman generally.**

The Secretary of Agriculture, or his designated representative, is authorized, upon application to him, to issue to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this chapter and such rules and regulations as may be made hereunder: *Provided*, That each such warehouse be found suitable for the proper storage of the particular agricultural product or products for which a license is applied for, and that such warehouseman agree, as a condition to the granting of the license, to comply with and abide by all terms of this chapter and the rules and regulations prescribed hereunder. (Aug. 11, 1916, ch. 313, part C, § 4, 39 Stat. 486; Mar. 2, 1931, ch. 366, § 1, 46 Stat. 1463.)

#### **§ 245. Term of license; renewal.**

Each license issued under sections 244 and 248 of this title shall terminate as therein provided, or in accordance with the terms of this chapter and the regulations thereunder, and may from time to time be modified or extended by written instrument. (Aug. 11, 1916, ch. 313, part C, § 5, 39 Stat. 486; Feb. 23, 1923, ch. 106, 42 Stat. 1282.)

#### **§ 246. Suspension and revocation of license of warehouseman generally.**

The Secretary of Agriculture, or his designated representative, may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license to any warehouseman conducting a warehouse under this chapter, for any violation of or failure to comply with any provision of this chapter or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing. (Aug. 11, 1916, ch. 313, part C, § 25, 39 Stat. 490; Mar. 2, 1931, ch. 366, § 8, 46 Stat. 1465.)

#### **§ 247. Bond of applicant for warehouse license; additional bond.**

Each warehouseman applying for a license to conduct a ware-

house in accordance with this chapter shall, as a condition to the granting thereof, execute and file with the Secretary of Agriculture a good and sufficient bond to the United States to secure the faithful performance of his obligations as a warehouseman under the terms of this chapter and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State, District, or Territory in which the warehouse is located, and shall contain such terms and conditions as the Secretary of Agriculture may prescribe to carry out the purposes of this chapter, and may, in the discretion of the Secretary of Agriculture, include the requirements of fire and/or other insurance. Whenever the Secretary of Agriculture, or his designated representative, shall determine that a previously approved bond is, or for any cause has become, insufficient, he may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked. (Aug. 11, 1916, ch. 313, part C, § 6, 39 Stat. 486; July 24, 1919, ch. 26, 41 Stat. 266; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, § 2, 46 Stat. 1463.)

**§ 248. License to person not warehouseman; bond; general duties of persons so licensed.**

The Secretary of Agriculture, or his designated representative, may, under such rules and regulations as he shall prescribe, issue a license to any person not a warehouseman to accept the custody of agricultural products and to store the same in a warehouse or warehouses owned, operated, or leased by any State, upon condition that such person agrees to comply with and abide by the terms of this chapter and the rules and regulations prescribed hereunder. Each person so licensed shall issue receipts for the agricultural products placed in his custody, and shall give bond, in accordance with the provisions of this chapter, and the rules and regulations hereunder affecting warehousemen licensed under this chapter, and shall otherwise be subject to this chapter, and such rules and regulations, to the same extent as is provided for warehousemen licensed hereunder. (Aug. 11, 1916, ch. 313, part C, § 9, 39 Stat. 487; Mar. 2, 1931, ch. 366, § 4, 46 Stat. 1464.)

**§ 249. Action on bond by person injured.**

Any person injured by the breach of any obligation to secure which a bond is given, under the provisions of section 247 or 248 of this title, shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach. (Aug. 11, 1916, ch. 313, part C, § 7, 39 Stat. 487.)

**§ 250. Designation as bonded warehouse.**

Upon the filing with and approval by the Secretary of Agriculture, or his designated representative, of a bond, in compliance

with this chapter, for the conduct of a warehouse, such warehouse may be designated as bonded hereunder; but no warehouse shall be designated as bonded under this chapter, and no name or description conveying the impression that it is so bonded, shall be used, until a bond, such as provided for in section 247 of this title, has been filed with and approved by the Secretary of Agriculture, or his designated representative, nor unless the license issued under this chapter for the conduct of such warehouse remains unsuspended and unrevoked. (Aug. 11, 1916, ch. 313, part C, § 8, 39 Stat. 487; Mar. 2, 1931, ch. 366, § 3, 46 Stat. 1463.)

**§ 251. Fee for inspection of warehouse or for license; disposition of moneys.**

The Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee for every examination or inspection of a warehouse under this chapter when such examination or inspection is made upon application of a warehouseman, and for each license issued to a warehouseman or to any person to classify, inspect, grade, sample, and/or weigh agricultural products stored or to be stored under the provisions of this chapter, the Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee. All such fees shall be deposited and covered into the Treasury as miscellaneous receipts. (Aug. 11, 1916, ch. 313, part C, § 10, 39 Stat. 487; Mar. 2, 1931, ch. 366, § 5, 46 Stat. 1464.)

**§ 252. License to classify, grade, or weigh agricultural products.**

The Secretary of Agriculture, or his designated representative, may upon presentation of satisfactory proof of competency, issue to any person a license to inspect, sample, or classify any agricultural product or products, stored or to be stored in a warehouse licensed under this chapter, according to condition, grade, or otherwise and to certificate the condition, grade, or other class thereof, or to weigh the same and certificate the weight thereof, or both to inspect, sample, or classify and weigh the same and to certificate the condition, grade, or other class and the weight thereof, upon condition that such person agree to comply with and abide by the terms of this chapter and of the rules and regulations prescribed hereunder so far as the same relate to him. (Aug. 11, 1916, ch. 313, part C, § 11, 39 Stat. 487; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, § 6, 46 Stat. 1464.)

**§ 253. Suspension and revocation of license to classify, grade, or weigh.**

Any license issued to any person to inspect, sample, or classify, or to weigh any agricultural product or products under this chapter may be suspended or revoked by the Secretary of Agriculture, or his designated representative, whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to inspect, sample, or classify, or to weigh any agricultural product or products correctly, or has violated any of the provisions of this chapter or of the rules and regulations prescribed hereunder, so far as the same may relate to him, or that he has used his license or allowed it to be used for any improper purpose whatever. Pending investigation, the Secretary of

Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing. (Aug. 11, 1916, ch. 313, part C, § 12, 39 Stat. 487; Feb. 23, 1923, ch. 106, 42 Stat. 1283; Mar. 2, 1931, ch. 366, § 7, 46 Stat. 1464.)

#### **§ 254. Discrimination by warehouseman prohibited.**

Every warehouseman conducting a warehouse licensed under this chapter shall receive for storage therein, so far as its capacity permits, any agricultural products of the kind customarily stored therein by him which may be tendered to him in a suitable condition for warehousing, in the usual manner in the ordinary and usual course of business, without making any discrimination between persons desiring to avail themselves of warehouse facilities. (Aug. 11, 1916, ch. 313, part C, § 13, 39 Stat. 488.)

#### **§ 255. Deposits of products deemed made subject to chapter.**

Any person who deposits agricultural products for storage in a warehouse licensed under this chapter shall be deemed to have deposited the same subject to the terms of this chapter and the rules and regulations prescribed thereunder. (Aug. 11, 1916, ch. 313, part C, § 14, 39 Stat. 488.)

#### **§ 256. Inspection and grading of products stored.**

Any fungible agricultural products stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this chapter, shall be inspected and graded by a person duly prescribed to grade the same under this chapter. (Aug. 11, 1916, ch. 313, part C, § 15, 39 Stat. 488; Feb. 23, 1923, ch. 106, 42 Stat. 1283.)

#### **§ 257. Standards for agricultural products.**

The Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards for agricultural products by which their quality or value may be judged or determined: *Provided*, That the standards for any agricultural products which have been, or which in the future may be established by or under authority or any other Act of Congress shall be, and are hereby, adopted for the purposes of this chapter as the official standards of the United States for the agricultural products to which they relate. (Aug. 11, 1916, ch. 313, part C, § 19, 39 Stat. 489; Feb. 23, 1923, ch. 106, 42 Stat. 1284.)

#### **§ 258. Mingling products stored.**

Every warehouseman conducting a warehouse licensed under this chapter shall keep the agricultural products therein of one depositor so far separate from agricultural products of other depositors, and from other agricultural products of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the agricultural products deposited; but if authorized by agreement or by custom, a warehouseman may mingle fungible agricultural products with other agricultural products of the same kind and grade, and shall be severally liable to each depositor for the care and redelivery of his share of such mass, to the same extent and under the same circumstances as if the agricultural products had been kept separate,

but he shall at no time while they are in his custody mix fungible agricultural products of different grades. (Aug. 11, 1916, ch. 313, part C, § 16, 39 Stat. 488.)

### § 259. Receipts for products stored generally.

For all agricultural products stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this chapter original receipts shall be issued by the warehouseman conducting the same, but no receipts shall be issued except for agricultural products actually stored in the warehouse at the time of the issuance thereof. (Aug. 11, 1916, ch. 313, part C, § 17, 39 Stat. 488.)

### § 260. Contents of receipts.

Every receipt issued for agricultural products stored in a warehouse licensed under this chapter shall embody within its written or printed terms (a) the location of the warehouse in which the agricultural products are stored; (b) the date of issue of the receipt; (c) the consecutive number of the receipt; (d) a statement whether the agricultural products received will be delivered to the bearer, to a specified person, or to a specified person or his order; (e) the rate of storage charges; (f) a description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products customarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages; (g) the grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: *Provided*, That such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated under the authority of law: *Provided further*, That until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the Secretary of Agriculture; (h) a statement that the receipt is issued subject to the United States Warehouse Act and the rules and regulations prescribed thereunder; (i) if the receipt be issued for agricultural products of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; (j) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien: *Provided*, That if the precise amount of such advances made or of such liabilities incurred be at the time of the issue of the receipt unknown to the warehouseman or his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof shall be sufficient; (k) such other terms and conditions within the limitations of this chapter as may be required by the Secretary of Agriculture; and (l) the signature of the warehouseman, which may be made by his authorized agent: *Provided*, That unless otherwise required by the law of the State in which the warehouse is located, when requested by

the depositor of other than fungible agricultural products, a receipt omitting compliance with subdivision (g) of this section may be issued: *Provided, however*, That the Secretary of Agriculture may in his discretion require that such receipt have plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable. (Aug. 11, 1916, ch. 313, part C, § 18, 39 Stat. 488; July 24, 1919, ch. 26, 41 Stat. 266; Feb. 23, 1923, ch. 106, 42 Stat. 1284.)

#### **§ 261. Issuance of further receipt with original outstanding.**

While an original receipt issued under this chapter is outstanding and uncanceled by the warehouseman issuing the same no other or further receipt shall be issued for the agricultural product covered thereby or for any part thereof except that in the case of a lost or destroyed receipt a new receipt, upon the same terms and subject to the same conditions and bearing on its face the number and date of the receipt in lieu of which it is issued, may be issued upon compliance with the statutes of the United States applicable thereto in places under the exclusive jurisdiction of the United States or upon compliance with the laws of any State applicable thereto in any place not under the exclusive jurisdiction of the United States: *Provided*, That if there be in such case no statute of the United States or law of a State applicable thereto such new receipts may be issued upon the giving of satisfactory security in compliance with the rules and regulations made pursuant to this chapter. (Aug. 11, 1916, ch. 313, part C, § 20, 39 Stat. 489.)

#### **§ 262. Delivery of products stored on demand; conditions to delivery.**

A warehouseman conducting a warehouse licensed under this chapter, in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored therein upon a demand made either by the holder of a receipt for such agricultural products or by the depositor thereof if such demand be accompanied with (a) an offer to satisfy the warehouseman's lien; (b) an offer to surrender the receipt, if negotiable, with such indorsements as would be necessary for the negotiation of the receipt; and (c) a readiness and willingness to sign, when the products are delivered, an acknowledgment that they have been delivered if such signature is requested by the warehouseman. (Aug. 11, 1916, ch. 313, part C, § 21, 39 Stat. 489.)

#### **§ 263. Cancellation of receipt on delivery of product stored.**

A warehouseman conducting a warehouse licensed under this chapter shall plainly cancel upon the face thereof each receipt returned to him upon the delivery by him of the agricultural products for which the receipt was issued. (Aug. 11, 1916, ch. 313, part C, § 22, 39 Stat. 490.)

#### **§ 264. Records of products stored; reports to Secretary of Agriculture; general compliance with provisions of chapter, rules, and regulations.**

Every warehouseman conducting a warehouse licensed under

this chapter shall keep in a place of safety complete and correct records of all agricultural products stored therein and withdrawn therefrom, of all warehouse receipts issued by him, and of the receipts returned to and cancelled by him, shall make reports to the Secretary of Agriculture concerning such warehouse and the condition, contents, operation, and business thereof in such form and at such times as he may require, and shall conduct said warehouse in all other respects in compliance with this chapter and the rules and regulations made thereunder. (Aug. 11, 1916, ch. 313, part C, § 23, 39 Stat. 490.)

**§ 265. Examination of stored products; publication of findings.**

The Secretary of Agriculture is authorized to cause examinations to be made of any agricultural product stored in any warehouse licensed under this chapter. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this chapter and the rules and regulations made thereunder, the Secretary may publish his findings. (Aug. 11, 1916, ch. 313, part C, § 24, 39 Stat. 490.)

**§ 266. Publication of general investigation of warehousing, names and locations of bonded warehouses, and revocation of licenses.**

The Secretary of Agriculture from time to time may publish the results of any investigations made under section 243 of this title and he shall publish the names and locations of warehouses licensed and bonded and the names and addresses of persons licensed under this chapter and list of all licenses terminated under this chapter and the causes therefor. (Aug. 11, 1916, ch. 313, part C, § 26, 39 Stat. 490.)

**§ 267. Examination of books, records, etc., of warehousemen.**

The Secretary of Agriculture is authorized through officials, employees, or agents of the Department of Agriculture designated by him to examine all books, records, papers, and accounts of warehouses licensed under this chapter and of the warehousemen conducting such warehouses relating thereto. (Aug. 11, 1916, ch. 313, part C, § 27, 39 Stat. 490.)

**§ 268. Rules and regulations by Secretary of Agriculture.**

The Secretary of Agriculture shall from time to time make such rules and regulations as he may deem necessary for the efficient execution of this chapter. (Aug. 11, 1916, ch. 313, part C, § 28, 39 Stat. 490.)

**§ 269. Cooperation with State authorities; authority of Secretary; operation of existing laws.**

In the discretion of the Secretary of Agriculture he is authorized to cooperate with State officials charged with the enforcement of State laws relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers; but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this chapter shall be exclusive with respect to all persons securing a license hereunder so long as said license

remains in effect. This chapter shall not be construed so as to limit the operation of any statute of the United States relating to warehouses or to warehousemen, weighers, graders, inspectors, samplers, or classifiers now in force in the District of Columbia or in any Territory or other place under the exclusive jurisdiction of the United States. (Aug. 11, 1916, ch. 313, part C, § 29, 39 Stat. 490; Feb. 23, 1923, ch. 106, 42 Stat. 1285; Mar. 2, 1931, ch. 366, § 9, 46 Stat. 1465.)

**§ 270. Punishment generally for violation of provisions of chapter; reimbursement of owner of products converted.**

Every person who shall forge, alter, counterfeit, simulate, or falsely represent, or shall without proper authority use, any license issued by the Secretary of Agriculture, or his designated representative, under this chapter, or who shall violate or fail to comply with any provision of section 250 of this title, or who shall issue or utter a false or fraudulent receipt or certificate, or change in any manner an original receipt or certificate subsequently to issuance by a licensee, or any person who, without lawful authority, shall convert to his own use, or use for purposes of securing a loan, or remove from a licensed warehouse contrary to this chapter or the regulations promulgated thereunder, any agricultural products stored or to be stored in such warehouse, and for which licensed receipts have been or are to be issued, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$10,000, or double the value of the products involved if such double value exceeds \$10,000, or imprisoned not more than ten years, or both, in the discretion of the court, and the owner of the agricultural products so converted, used, or removed may, in the discretion of the Secretary of Agriculture, be reimbursed for the value thereof out of any fine collected hereunder, by check drawn on the Treasury at the direction of the Secretary of Agriculture for the value of such products to the extent that such owner has not otherwise been reimbursed. Any person who shall draw with intent to deceive, a false sample, of, or who shall willfully mutilate or falsely represent a sample drawn under this chapter, or who shall classify, grade, or weigh fraudulently, any agricultural products stored or to be stored under the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof fined not more than \$500, or imprisoned for not more than six months, or both, in the discretion of the court. (Aug. 11, 1916, ch. 313, part C, § 30, 39 Stat. 490; Feb. 23, 1923, ch. 106, 42 Stat. 1285; Mar. 2, 1931, ch. 366, § 10, 46 Stat. 1465.)

**§ 271. Employment by Secretary of temporary assistance.**

The Secretary of Agriculture is authorized in his discretion, to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the purposes of this chapter. (Aug. 11, 1916, ch. 313, part C, § 31, 39 Stat. 491.)

**§ 272. Effect of partial invalidity of chapter.**

If any clause, sentence, paragraph, or part of this chapter shall, for any reason, be adjudged by any court of competent jurisdiction

to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. (Aug. 11, 1916, ch. 313, part C, § 32, 39 Stat. 491.)

## **Agricultural Adjustment Act of 1938**

(7 U.S.C. 1291)

### **§ 1291. Adjustments in freight rates.**

#### **(a) COMPLAINTS BY SECRETARY OF AGRICULTURE; NOTICE OF HEARINGS.**

The Secretary of Agriculture is authorized to make complaint to the Interstate Commerce Commission with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, and to prosecute the same before the Commission. Before hearing or disposing of any complaint (filed by any person other than the Secretary) with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, the Commission shall cause the Secretary to be notified, and, upon application by the Secretary, shall permit the Secretary to appear and be heard.

#### **(b) SECRETARY AS PARTY TO PROCEEDINGS.**

If such rate, charge, tariff, or practice complained of is one affecting the public interest, upon application by the Secretary, the Commission shall make the Secretary a party to the proceedings. In such case the Secretary shall have the rights of a party before the Commission and the rights of a party to invoke and pursue original and appellate judicial proceedings involving the Commission's determination. The liability of the Secretary in any such case shall extend only to liability for court costs.

#### **(c) UTILIZATION OF RECORDS, SERVICES, ETC., OF DEPARTMENT OF AGRICULTURE.**

For the purposes of this section, the Interstate Commerce Commission is authorized to avail itself of the cooperation, records, services, and facilities of the Department of Agriculture.

#### **(d) COOPERATION WITH COMPLAINING FARM ASSOCIATIONS.**

The Secretary is authorized to cooperate with and assist cooperative associations of farmers making complaint to the Interstate Commerce Commission with respect to rates, charges, tariffs, and practices relating to the transportation of farm products. (Feb. 16, 1938, 3 p. m., ch. 30, title II, § 201, 52 Stat. 36.)

## **Fees, Reimbursements, and Records**

### **Department of Agriculture Organic Act of 1944**

(5 U.S.C. 571, 575; 7 U.S.C. 415e)

### **§ 571. Inspections, analyses, and tests for other Government departments and agencies; reimbursement.**

The head of any department or independent establishment of the Government requiring inspections, analyses, and tests of food

and other products, within the scope of the functions of the Department of Agriculture and which that Department is unable to perform within the limits of its appropriations, may, with the approval of the Secretary, transfer to the Department for direct expenditure such sums as may be necessary for the performance of such work. (Sept. 21, 1944, ch. 412, title VII, § 702 (a), 58 Stat. 741.)

**§ 575. Market-inspection certificates as prima facie evidence.**

Market-inspection certificates issued by authorized agents of the Department of Agriculture shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained. (Sept. 21, 1944, ch. 412, title IV, § 401 (c), 58 Stat. 738.)

**§ 415e. Farm or food products; sale of samples, practical forms, etc.**

The Secretary of Agriculture is authorized to sell samples, illustrations, practical forms, or sets of the grades recommended or promulgated by him for farm or food products, under such rules and regulations as he may prescribe, and the receipts therefrom shall be deposited in the Treasury to the credit of miscellaneous receipts. (Sept. 21, 1944, ch. 412, title IV, § 401 (a), 58 Stat. 738.)

### **Cooperative Contributions**

(5 U.S.C. 563-564a)

**§ 563. Cooperation with State and other agencies; expenditures.**

In carrying on the activities of the Department of Agriculture involving cooperation with State, county, and municipal agencies, associations of farmers, individual farmers, universities, colleges, boards of trade, chambers of commerce, or other local associations of business men, business organizations, and individuals within the State, Territory, district, or insular possession in which such activities are to be carried on, moneys contributed from such outside sources, except in the case of the authorized activities of the Forest Service, shall be paid only through the Secretary of Agriculture or through State, county, or municipal agencies, or local farm bureaus or like organizations, cooperating for the purpose with the Secretary of Agriculture. (July 24, 1919, ch. 26, 41 Stat. 270.)

**§ 564. Same; salaries of employees of Department.**

The officials and the employees of the Department of Agriculture engaged in the activities described in section 563 of this title and paid in whole or in part out of funds contributed as provided therein, and the persons, corporations, or associations making contributions as therein provided, shall not be subject to the provisions of section 1914 of Title 18; nor shall any official or employee engaged in the cooperative activities of the Forest Service, or the persons, corporations, or associations contributing to such activities be subject to such section. (As amended Sept. 3, 1954, ch. 1263, § 5, 68 Stat. 1227.)

### **§ 564a. Amount and character of cooperation.**

Unless otherwise provided by the Department of Agriculture Organic Act of 1944 or by other statute, the measure and character of cooperation authorized by said Act on the part of the Federal Government and on the part of the cooperator shall be such as may be prescribed by the Secretary, unless otherwise provided for in the applicable appropriation. (Sept. 21, 1944, ch. 412, title VII, 711, 58 Stat. 743.)

### **Inspection Services—Reimbursements**

(5 U.S.C. 576)

### **§ 576. Inspection or quarantine services involving overtime furnished upon a reimbursable basis.**

The Secretary of Agriculture is authorized to pay employees of the United States Department of Agriculture performing inspection or quarantine services relating to imports into and exports from the United States, for all overtime, night, or holiday work performed by them at any place where such inspection and quarantine services are performed, at such rates as he may determine, and to accept from persons for whom such work is performed reimbursement for any sums paid out by him for such work. (Aug. 28, 1950, ch. 815, 64 Stat. 561.)

### **Fees for Services Rendered**

(5 U.S.C. 140)

### **§ 140. Services as self-sustaining; uniformity; regulations; deposit in Treasury; effect on other laws.**

It is the sense of the Congress that any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency (including wholly owned Government corporations as defined in the Government Corporation Control Act of 1945) to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefor such fee, charge, or price, of any, as he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts: *Provided*, That nothing contained in this section shall repeal or modify existing statutes prohibiting the collection, fixing the amount, or directing the disposition of any fee, charge or price: *Provided further*, That nothing contained in this section

shall repeal or modify existing statutes prescribing bases for calculation of any fee, charge or price, but this proviso shall not restrict the redetermination or recalculation in accordance with the prescribed bases of the amount of any such fee, charge or price. (Aug. 31, 1951, ch. 376, title V, § 501, 65 Stat. 290.)

## **Agreements and Orders, Grading and Inspections**

### **Agricultural Marketing Agreement Act of 1937**

(7 U.S.C. 601, 602, 608a–608e, 610–612, 614, 624, 671–673)

#### **§ 601. Declaration of conditions.**

It is declared that the disruption of the orderly exchange of commodities in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure and that these conditions affect transactions in agricultural commodities with a national public interest, and burden and obstruct the normal channels of interstate commerce. (May 12, 1933, ch. 25, title I, § 1, 48 Stat. 31; June 3, 1937, ch. 296, §§ 1, 2 (a), 50 Stat. 246.)

#### **§ 602. Declaration of policy; establishment of base periods for prices; marketing standards.**

It is declared to be the policy of Congress—

(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under sections 601–608 and 608a, 608b, 608c, 608d, 608e–620 of this title, to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices as defined by section 1301 (a) (1) of this title. (July 3, 1948, ch. 827, Title III, § 302 (a), 62 Stat. 1257.)

(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under sections 601–608, 608a, 608b, 608c, 608d, 608e–620, 623, 624 of this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section. (May 12, 1933, ch. 25, title I, § 2, 48 Stat. 32; Aug. 24, 1935, ch. 641, §§ 1, 62, 49 Stat. 750, 782; June 3, 1937, ch. 296, §§ 1, 2 (b), 50 Stat. 246, 247.)

(3) Through the exercise of the powers, conferred upon the Secretary of Agriculture under sections 601–608, 608a, 608b, 608c, 608d, 608e–620, 623, and 624 of this title, to establish and maintain such minimum standards of quality and maturity and such grading and inspection requirements for agricultural commodities enumerated in section 608c (2) of this title, other than milk and

its products, in interstate commerce as will effectuate such orderly marketing of such agricultural commodities as will be in the public interest. (As amended Aug. 1, 1947, ch. 425, § 1, 61 Stat. 707.)

(4) Through the exercise of the power conferred upon the Secretary of Agriculture under sections 601-608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title, to establish and maintain such orderly marketing conditions for any agricultural commodity enumerated in section 608c (2) of this title as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices. (As amended Aug. 28, 1954, ch. 1041, title IV, § 401, 68 Stat. 906.)

#### § 608a. Forfeitures; district courts, etc.

(5) Forfeitures. Any person willfully exceeding any quota or allotment fixed for him under sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, 624 of this title by the Secretary of Agriculture, and any other person knowingly participating, or aiding, in the exceeding of said quota or allotment shall forfeit to the United States a sum equal to three times the current market value of such excess which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(6) Jurisdiction of district courts. The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order, regulation, or agreement, heretofore or hereafter made or issued pursuant to sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, 624 of this title, in any proceeding now pending or hereafter brought in said courts.

(7) Duties of United States attorneys; investigation of violations by Secretary; hearings. Upon the request of the Secretary of Agriculture, it shall be the duty of the several United States attorneys, in their respective districts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in, or pursuant to sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, 624 of this title. Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to said sections, the Secretary shall have power to institute an investigation and, after *due notice to such handler*, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action.

(8) Cumulative remedies. The remedies provided for in this section shall be in addition to, and not exclusive of, any of the remedies or penalties provided for elsewhere in sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, 624 of this title or now or hereafter existing at law or in equity.

(9) "Person" defined. The term "person" as used in sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, 624 of this title includes an individual, partnership, corporation, association, and any other business unit. (May 12, 1933, ch. 26, title I, § 8a, as added

May 9, 1934, 11:23 a. m., ch. 263, § 4, 48 Stat. 672; Aug. 24, 1935, ch. 641, §§ 8-10, 49 Stat. 762; June 3, 1937, ch. 296, §§ 1, 2 (c), 50 Stat. 246, 247.)

### § 608b. Marketing agreements; exemption from antitrust laws.

In order to effectuate the declared policy of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623 and 624 of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided*, That no such agreement shall remain in force after the termination of said sections. (May 12, 1933, ch. 25, title I, § 8 (2), 48 Stat. 34; Apr. 7, 1934, ch. 103, § 7, 48 Stat. 528; renumbered § 8b and amended Aug. 24, 1935, ch. 641, § 4, 49 Stat. 753; June 3, 1937, ch. 296, § 1, 50 Stat. 246; June 30, 1947, ch. 166, title II, § 206 (d), 61 Stat. 208.)

### § 608c. Orders regulating handling of commodity.

(1) Issuance by Secretary. The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, 624 of this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

(2) Commodities to which applicable. Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof (except canned or frozen grapefruit, the products of naval stores, and the products of honeybees), or to any regional, or market classification of any such commodity or product: Milk, fruits (including filberts, almonds, pecans and walnuts but not including apples, other than apples produced in the States of Washington, Oregon, and Idaho, and not including fruits other than olives and grapefruit, for canning or freezing), tobacco, vegetables (not including vegetables, other than asparagus, for canning or freezing), soybeans, hops, honeybees and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin): *Provided*, That no order issued pursuant to this section shall be effective as to any grapefruit for canning or freezing unless the Secretary of Agriculture determines, in addition to other findings and determinations required by sections

601-608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title, that the issuance of such order is approved or favored by the processors who, during a representative period determined by the Secretary, have been engaged in canning or freezing such commodity for market and have canned or frozen for market more than 50 per centum of the total volume of such commodity canned or frozen for market during such representative period.

(3) Notice and hearing. Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

(4) Finding and issuance of order. After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of said sections with respect to such commodity.

(5) Milk and its products; terms and conditions of orders. In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section) no others:

(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

(B) Providing:

(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d) a further adjustment, equitably to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their marketings of milk during a representative period of time.

(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection, providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) of this section.

(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection.

(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative market association, qualified as provided in paragraph (F) of this subsection, for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

(F) Nothing contained in this subsection is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of sections 291 and 292 of this title, engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: *Provided*, That it shall not sell milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection for such milk.

(G) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.

(6) Other commodities; terms and conditions of orders. In the case of the agricultural commodities and the products thereof, other than milk and its products, specified in subsection (2) of this section orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section), no others:

(A) Limiting, or providing methods for the limitation of, the total quantity of any such commodity or products, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof.

(B) Allotting, or providing methods for allotting, the amount of such commodity or products, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts sold by such producers in such prior period as the Secretary determines to be representative, or upon the current quantities available for sale by such producers, or both, to the end that the total quantity thereof to be purchased, or handled during any specified period or periods shall be apportioned equitably among producers.

(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity, or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

(E) Establishing or providing for the establishment of reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

(F) Requiring or providing for the requirement of inspection of any such commodity or product produced during specified periods and marketed by handlers.

(G) In the case of hops and their products, in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

(i) Limiting, or providing methods for the limitation of, the total quantity thereof, or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as directly to burden, obstruct,

or affect interstate or foreign commerce in hops or any product thereof.

(ii) Apportioning, or providing methods for apportioning, the total quantity of hops of the production of the then current calendar year permitted to be handled equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yields of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding section (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of subsection (5) of section 608c of this title.

(H) Providing a method for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging, transportation, sale, shipment, or handling of any fresh or dried fruits, vegetables, or tree nuts: *Provided*, however, That no action taken hereunder shall conflict with the Standard Containers Act of 1916 and the Standard Containers Act of 1928;

(I) Establishing or providing for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of any such commodity or product, the expense of such projects to be paid from funds collected pursuant to the marketing order.

(7) Terms common to all orders. In the case of the agricultural commodities and the products thereof specified in subsection (2) orders shall contain one or more of the following terms and conditions:

(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of any agency or agencies and defining their powers and duties, which shall include only the powers:

(i) To administer such order in accordance with its terms and provisions;

(ii) To make rules and regulations to effectuate the terms and provisions of such order ;

(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order ; and

(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph shall be deemed to be acting in an official capacity, within the meaning of section 610 (g) of this title, unless such person receives compensation for his personal services from funds of the United States. There shall be included in the membership of any agency selected to administer a marketing order applicable to grapefruit for canning or freezing one or more representatives of processors of the commodity specified in such order.

(D) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5)–(7) and necessary to effectuate the other provisions of such order.

(8) Orders with marketing agreement. Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per centum of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 608b of this title, which regulates the handling of such commodity or product in the same manner as such order, except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement: *Provided*, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(9) Orders with or without marketing agreement. Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture determines;

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title with respect to such commodity or product, and

(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(10) Manner of regulation and applicability. No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held. No order shall be issued under section 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title prohibiting, regulating, or restricting the adver-

tising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement.

(11) Regional application. (A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title.

(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable consistently with carrying out such declared policy.

(C) All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas.

(12) Approval of cooperative association as approval of producers. Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

(13) Retailer and producer exemption. (A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

(B) No order issued under sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title shall be applicable to any producer in his capacity as a producer.

(14) Violation of order; penalty. Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than \$50 or more than \$500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: *Provided*, That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violation as occurred

between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15) of this section.

(15) Petition by handler for modification of order or exemption; court review of ruling of Secretary. (A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The District Courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 608a (6) of this title. Any proceedings brought pursuant to section 608a (6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection.

(16) Termination of orders and marketing agreements. (A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title, terminate or suspend the operation of such order or such provision thereof.

(B) The Secretary shall terminate any marketing agreement entered into under section 608b of this title, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the

marketing area specified in such marketing agreement or order: *Provided*, That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

(C) The termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section.

(17) Provisions applicable to amendments. The provisions of this section and section 608d of this title applicable to orders shall be applicable to amendments to orders: *Provided*, That notice of a hearing upon a proposed amendment to any order issued pursuant to this section, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof.

(18) Milk prices. The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, shall ascertain the parity prices of such commodities. The prices which it is declared to be the policy of Congress to establish in section 602 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area to which the contemplated marketing agreement, order, or amendment relates. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section 608b of this title or this section, as the case may be, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area to which the contemplated agreement, order, or amendment relates, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest. Thereafter, as the Secretary finds necessary on account of changed circumstances, he shall, after due notice and opportunity for hearing, make adjustments in such prices.

(19) Producer referendum for approving order. For the purpose of ascertaining whether the issuance of an order is approved or favored by producers, as required under the applicable provisions of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title, the Secretary may conduct a referendum among producers. The requirements of approval or favor under any such provision shall be held to be complied with if, of the total number of producers, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of the percentage

required under such provision. Nothing in this subsection shall be construed as limiting representation by cooperative associations as provided in subsection (12) of this section. (May 12, 1933, ch. 25, title I, § 8c, as added Aug. 24, 1935, ch. 641, § 5, 49 Stat. 753, and amended June 25, 1936, ch. 804, 49 Stat. 1921; June 3, 1937, ch. 296, §§1, 2 (d), (e), (f), (k), (l), (m), 50 Stat. 246, 247; Aug. 5, 1937, ch. 567, 50 Stat. 563; Apr. 13, 1938, ch. 143, §§ 1, 2, 52 Stat. 215; May 31, 1939, ch. 157, 53 Stat. 793; Feb. 10, 1942, ch. 52, §§ 2, 3, 56 Stat. 85; Aug. 1, 1947, ch. 425, §§ 2, 4, 61 Stat. 707, 710; July 3, 1948, ch. 827, title III, § 302 (b, c), 62 Stat. 1258; June 29, 1949, ch. 273, 63 Stat. 282; Aug. 28, 1954, ch. 1041, title IV, § 401, 68 Stat. 907.)

#### **§ 608d. Books and records; disclosure of information.**

(1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of section 607 of this title, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing

agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office. (May 12, 1933, ch. 25, title I, § 8d, as added Aug. 24, 1935, ch. 641, § 6, 49 Stat. 761, and amended June 3, 1937, ch. 296, § 1, 50 Stat. 246.)

**§ 608e. Import prohibitions on tomatoes, avocados, limes, etc., rules and regulations.**

Notwithstanding any other provision of law, whenever a marketing order issued by the Secretary of Agriculture pursuant to section 608c of this title contains any terms or conditions regulating the grade, size, quality, or maturity of tomatoes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, or eggplants produced in the United States the importation into the United States of any such commodity during the period of time such order is in effect shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated hereunder: *Provided*, That this prohibition shall not apply to such commodities when shipped into continental United States from the Commonwealth of Puerto Rico or any Territory or possession of the United States where sections 601-608a, 608b, 608c, 608d, 608e-620, 623, and 624 have force and effect: *Provided further*, That whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation into the United States of any such commodity shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition. Such prohibition shall not become effective until after the giving of such notice as the Secretary of Agriculture determines reasonable, which shall not be less than three days. In determining the amount of notice that is reasonable in the case of tomatoes the Secretary of Agriculture shall give due consideration to the time required for their transportation and entry into the United States after picking. Whenever the Secretary of Agriculture finds that the application of the restrictions under a marketing order to an imported commodity is not practicable because of variations in characteristics between the domestic and imported commodity he shall establish with respect to the imported commodity such grade, size, quality, and maturity restrictions by varieties, types, or other classifications as he finds will be equivalent or comparable to those imposed upon the domestic commodity under such order. The Secretary of Agriculture may promulgate such rules and regulations as he deems necessary, to carry out the provisions of this section. Any person who violates any provision of this section or of any rule, regulation, or order promulgated hereunder shall be subject to a forfeiture in the amount prescribed in section 608a (5) of this title or, upon conviction, a penalty in the amount prescribed in section 608c (14) of this title, or to both such forfeiture and penalty. (May 12, 1933, ch. 25, title I, § 8e, as added Aug. 28,

1954, ch. 1041, title IV, § 401 (e), 68 Stat. 907, and amended Aug. 31, 1954, ch. 1172, § 3 (a), 68 Stat. 1047.)

### § 610. Administration.

(a) APPOINTMENT OF OFFICERS AND EMPLOYEES; EXEMPTION FROM CIVIL SERVICE REGULATIONS; SALARIES; IMPOUNDING APPROPRIATIONS.

The Secretary of Agriculture may appoint such officers and employees, subject to the provisions of the classification act of 1949 and such experts, as are necessary to execute the functions vested in him by sections 601–608, 608a, 608b, 608c, 608d, 608e–620, 623, and 624 of this title; and the Secretary may make such appointments without regard to the civil service laws or regulations: *Provided*, That no salary in excess of \$10,000 per annum shall be paid to any officer, employee, or expert of the Agricultural Adjustment Administration, which the Secretary shall establish in the Department of Agriculture for the administration of the functions vested in him by said sections: *And provided further*, That the State Administrator appointed to administer said sections in each State shall be appointed by the President, by and with the advice and consent of the Senate. Section 8 of Title II of the Act entitled “An Act to maintain the credit of the United States Government,” approved March 20, 1933, to the extent that it provides for the impoundment of appropriations on account of reductions in compensations, shall not operate to require such impoundment under appropriations contained in sections 601–608, 608a, 608b, 608c, 608d, 608e–620, 623, and 624 of this title.

(b) STATE AND LOCAL COMMITTEES OR ASSOCIATIONS OF PRODUCERS; HANDLERS’ SHARE OF EXPENSES OF AUTHORITY OR AGENCY.

(1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by sections 601–608, 608a, 608b, 608c, 608d, 608e–620, 623, and 624 of this title, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 608 of this title. The Secretary, in the administration of said sections, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

(2) (i) Each order relating to milk and its products issued by the Secretary under sections 601–608, 608a, 608b, 608c, 608d, 608e–620, 623, and 624 of this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler’s pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of milk or products thereof received, handled, held, or disposed of by such

authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of milk or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers.

(ii) Each order relating to any other commodity or product issued by the Secretary under sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find are reasonable and are likely to be incurred by such authority or agency, during any period specified by him, for such purposes as the Secretary may, pursuant to such order, determine to be appropriate, and for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. The payment of assessments for the maintenance and functioning of such authority or agency, as provided for herein, may be required under a marketing agreement or marketing order through the period the marketing agreement or order is in effect and irrespective of whether particular provisions thereof are suspended or become inoperative.

(iii) Any authority or agency established under an order may maintain in its own name, or in the name of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

#### (c) REGULATIONS; PENALTY FOR VIOLATION.

The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title. Any violation of any regulation shall be subject to such penalty, not in excess of \$100, as may be provided therein.

#### (f) GEOGRAPHICAL APPLICATION.

The provisions of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title shall be applicable to the United States and its possessions, except the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam; except that, in the case of sugar beets and sugarcane, the President, if he finds it necessary in order to effectuate the declared policy of said sections, is authorized by proclamation to make the provisions of said

sections applicable to the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam.

(g) OFFICERS; DEALING OR SPECULATING IN AGRICULTURAL PRODUCTS; PENALTIES.

No person shall, while acting in any official capacity in the administration of sections 601-608, 608a, 608b, 608c, 623, and 624, speculate, directly or indirectly, in any agricultural commodity or product thereof, to which said sections apply, or in contracts relating thereto, or in the stock or membership interests of any association or corporation engaged in handling, processing, or disposing of any such commodity or product. Any person violating this subsection shall upon conviction thereof be fined not more than \$10,000 or imprisoned not more than two years, or both.

(h) PROVISIONS OF FEDERAL TRADE COMMISSION ACT ADOPTED; HEARINGS, BEFORE WHOM HELD; REPORT OF VIOLATIONS TO ATTORNEY GENERAL.

For the efficient administration of the provisions of sections 608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title, the provisions, including penalties, of sections 48, 49, and 50 of Title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering the provisions of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624, of this title, and to any person subject to the provisions of said sections, whether or not a corporation. Hearings authorized or required under sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title shall be conducted by the Secretary of Agriculture or such officer or employee of the Department as he may designate for the purpose. The Secretary may report any violation of any agreement entered into under sections 608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title, to the Attorney General of the United States, who shall cause appropriate proceedings to enforce such agreement to be commenced and prosecuted in the proper courts of the United States without delay.

(i) COOPERATION WITH STATE AUTHORITIES; IMPARTING INFORMATION.

The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 608c of this title) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: *Provided,*

That information furnished to the Secretary of Agriculture pursuant to section 608d (1) of this title shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 608d (2) of this title.

(j) DEFINITIONS.

The term "interstate or foreign commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purpose of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title (but in nowise limiting the foregoing definition) a marketing transaction in respect to an agricultural commodity or the product thereof shall be considered in interstate or foreign commerce if such commodity or product is part of that current of interstate or foreign commerce usual in the handling of the commodity or product whereby they, or either of them, are sent from one State to end their transit, after purchase, in another, including all cases where purchase or sale is either for shipment to another State or for the processing within the State and the shipment outside the State of the products so processed. Agricultural commodities or products thereof normally in such current of interstate or foreign 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 sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title. As used herein the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations. (May 12, 1933, ch. 25, title I, § 10, 48 Stat. 37; June 16, 1933, ch. 98, title VIII, § 86, 48 Stat. 273; May 9, 1934, 11:23 a. m., ch. 263, § 7, 48 Stat. 675; Aug. 24, 1935, ch. 641, §§ 16-18, 49 Stat. 767; Aug. 26, 1935, ch. 685, 49 Stat. 801; June 22, 1936, 9:00 p.m., ch. 690, § 601 (a), 49 Stat. 1739; June 3, 1937, ch. 296, §§ 1, 2 (g-i), 50 Stat. 246, 248; 1946 Proc. No. 2695, eff. July 4, 1946, 11 F. R. 7817, 60 Stat. 1352; Aug. 1, 1947, ch. 425, § 3, 61 Stat. 709.)

**§ 611. "Basic agricultural commodity" defined; exclusion of commodities.**

As used in sections 601-608, 608a-608c, 608d-612, 613-619, 620, 623, 624 of this title, the term "basic agricultural commodity" means wheat, rye, flax, barley, cotton, field corn, grain sorghums, hogs, cattle, rice, potatoes, tobacco, peanuts, sugar beets and sugarcane, and milk and its products, and any regional or market classification, type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of sections 601-608, 608a-608c, 608d-612, 613-619, 620, 623, 624 of this title, during any period, any such commodity or classification, type, or grade thereof if he finds, upon investigation at any time and after

due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period sections 601-608, 608a-608c, 608d-612, 613-619, 620, 623, 624 of this title can not be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type or grade thereof. As used in sections 601-608, 608a-608c, 608d-612, 613-619, 620, 623, 624 of this title, the term "potatoes" means all varieties included in the species *Solanum tuberosum*. (May 12, 1933, ch. 25, title I, § 11, 48 Stat. 38; Apr. 7, 1934, ch. 103, §§ 1, 3 (b), 4, 5, 48 Stat. 528; May 9, 1934, 11:23 a. m., ch. 263, § 1, 48 Stat. 670; Aug. 24, 1935, ch. 641, § 61, 49 Stat. 782.)

#### § 612. Appropriation; use of revenues; administrative expenses.

(a) There is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000 to be available to the Secretary of Agriculture for administrative expenses under sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title and for payments authorized to be made under section 608 of this title. Such sum shall remain available until expended. To enable the Secretary of Agriculture to finance, under such terms and conditions as he may prescribe, surplus reductions with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section and to support and balance the markets for the dairy and beef cattle industries, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$200,000,000: *Provided*, That not more than 60 per centum of such amount shall be used for either of such industries.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law. The Secretary of Agriculture shall transfer to the Treasury Department, and is authorized to transfer to other agencies, out of funds available for administrative expenses under sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, 624 of this title, such sums as are required to pay administrative expenses incurred and refunds made by such department or agencies in the administration of said sections. (May 12, 1933, ch. 25, title I, § 12, 48 Stat. 38; Apr. 7, 1934, ch. 103, § 2, 48 Stat. 528; Aug. 24, 1935, ch. 641, §§ 3, 19, 49 Stat. 753, 768; June 3, 1937, ch. 296, §§ 1, 2 (j), 50 Stat. 246, 248.)

#### § 614. Separability of provisions.

If any provision of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, 624 of this title is declared unconstitutional, or the applicability thereof to any person, circumstance, or commodity is held invalid the invalidity of the remainder of said sections and the applicability thereof to other persons, circumstances, or commodities shall not be affected thereby. (May 12, 1933, ch. 25, title I, § 14, 48 Stat. 39; June 3, 1937, ch. 296, § 1, 50 Stat. 246.)

## § 624. Limitation on imports; authority of President.

(a) Whenever the Secretary of Agriculture has reason to believe that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken under this title, or the Soil Conservation and Domestic Allotment Act, as amended, or section 612c of this title, or any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken, he shall so advise the President, and, if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties, and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such fees not in excess of 50 per centum ad valorem or such quantitative limitations on any article or articles which may be entered, or withdrawn from warehouse, for consumption as he finds and declares shown by such investigation to be necessary in order that the entry of such article or articles will not render or tend to render ineffective, or materially interfere with, any program or operation referred to in subsection (a) of this section, or reduce substantially the amount of any product processed in the United States from any such agricultural commodity or product thereof with respect to which any such program or operation is being undertaken: *Provided*, That no proclamation under this section shall impose any limitation on the total quantity of any article or articles which may be entered, or withdrawn from warehouse, for consumption which reduces such permissible total quantity to proportionately less than 50 per centum of the total quantity of such article or articles which was entered, or withdrawn from warehouse, for consumption during a representative period as determined by the President: *And provided further*, That in designating any article or articles, the President may describe them by physical qualities, value, use, or upon such other bases as he shall determine.

In any case where the Secretary of Agriculture determines and reports to the President with regard to any article or articles that a condition exists requiring emergency treatment, the President may take immediate action under this section without awaiting the recommendations of the Tariff Commission, such action to continue in effect pending the report and recommendations of the Tariff Commission and action thereon by the President.

(c) The fees and limitations imposed by the President by

proclamation under this section and any revocation, suspension, or modification thereof, shall become effective on such date as shall be therein specified, and such fees shall be treated for administrative purposes and for the purposes of section 612c of this title, as duties imposed by the Tariff Act of 1930, but such fees shall not be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States.

(d) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the proclamation or provision thereof no longer exist or may be modified by the President whenever he finds, and proclaims that changed circumstances require such modification to carry out the purposes of this section.

(e) Any decision of the President as to facts under this section shall be final.

(f) No trade agreement or other international agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of this section. (May 12, 1933, ch. 25, title I, § 22, as added Aug. 24, 1935, ch. 641, § 31, 49 Stat. 773, and amended Feb. 29, 1936, ch. 104, § 5, 49 Stat. 1152; June 3, 1937, ch. 296, § 1, 50 Stat. 246; Jan. 25, 1940, ch. 13, 54 Stat. 17; July 3, 1948, ch. 827, title I, § 3, 62 Stat. 1248; June 28, 1950, ch. 381, § 3, 64 Stat. 261; June 16, 1951, ch. 141, § 8(b), 65 Stat. 75; August 7, 1953, ch. 348, title I, § 104, 67 Stat. 472.)

## **§ 671. Arbitration of disputes concerning milk.**

### **(a) APPLICATION.**

The Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, upon written application of any cooperative association, incorporated or otherwise, which is in good faith owned or controlled by producers or organizations thereof, of milk or its products, and which is bona fide engaged in collective processing or preparing for market or handling or marketing (in the current of interstate or foreign commerce, as defined by section 610 (j) of this title), milk or its products, may mediate and, with the consent of all parties, shall arbitrate if the Secretary has reason to believe that the declared policy of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title would be effectuated thereby, bona fide disputes, between such associations and the purchasers or handlers or processors or distributors of milk or its products, as to terms and conditions of the sale of milk or its products. The power to arbitrate under this section shall apply only to such subjects of the term or condition in dispute as could be regulated under the provisions of said sections relating to orders for milk and its products.

### **(b) CONDUCT OF MEETINGS.**

Meetings held pursuant to this section shall be conducted subject to such rules and regulations as the Secretary may prescribe.

**(c) APPROVAL OF AWARD.**

No award or agreement resulting from any such arbitration or mediation shall be effective unless and until approved by the Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, and shall not be approved if it permits any unlawful trade practice or any unfair method of competition.

**(d) EXEMPTION FROM ANTITRUST LAWS.**

No meeting so held and no award or agreement so approved shall be deemed to be in violation of any of the antitrust laws of the United States. (June 3, 1937, ch. 296, § 3, 50 Stat. 248.)

**§ 672. Agreements; licenses, regulations, programs, etc., unaffected.**

(a) Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to, or any provision of, or any act of the Secretary of Agriculture in connection with, any such agreement, license, or order which has been executed, issued, approved, or done under sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized, and confirmed.

(b) Any program in effect under sections 601, 602, 608a-608c, 610, 612, 614, and 624 of this title, on January 1, 1950, shall continue in effect without the necessity for any amendatory action relative to such program, but any such program shall be continued in operation by the Secretary of Agriculture only to establish and maintain such orderly marketing conditions as will tend to effectuate the declared purpose set out in section 602 or 608c of this title. (June 3, 1937, ch. 296, §4, 50 Stat. 249; as amended July 3, 1948, ch. 827, title III, § 302 (e), 62 Stat. 1258.)

**§ 673. Taxes under Agricultural Adjustment Act; laws unaffected.**

No processing taxes or compensating taxes shall be levied or collected under sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title. Except as provided in the preceding sentence, nothing in this Act shall be construed as affecting provisions of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title, other than those enumerated in section 1 of Act of June 3, 1937, ch. 296, 50 Stat. 246. The provisions so enumerated shall apply in accordance with their terms (as amended by this Act) to the provisions of sections 601-608, 608a, 608b, 608c, 608d, 608e-620, 623, and 624 of this title, sections 671-674 of this title, and other provisions of law to which they have been heretofore made applicable. (June 3, 1937, ch. 296, § 5, 50 Stat. 249.)

**PART C**  
**FOOD DISTRIBUTION**

**Section 32 and Related Statutes**

**Section 32**

(7 U.S.C. 612c)

**§ 612c. Appropriation to encourage exportation and domestic consumption of agricultural products.**

There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936, an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce or by increasing their utilization through benefits, indemnities, donations or by other means, among persons in low-income groups as determined by the Secretary of Agriculture; and (3) reestablish farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Determinations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final.

The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section. Notwithstanding any other provision of this section, the amount that may be devoted, during any fiscal year after June 30, 1939, to any one agricultural commodity or the products thereof in such fiscal year, shall not exceed 25 per centum of the funds available under this section for such fiscal year. The sums appropriated under this section shall be devoted principally to perishable nonbasic agricultural commodities (other than those receiving price support

under section 1446 of this title and their products. The sums appropriated under this section shall, notwithstanding the provisions of any other law, continue to remain available for the purposes of this section until expended; but any excess of the amount remaining unexpended at the end of any fiscal year over \$300,000,000 shall, in the same manner as though it had been appropriated for the service of such fiscal year, be subject to the provisions of sections 712 and 713 of Title 31. (Aug. 24, 1935, ch. 641, § 32, 49 Stat. 774; Feb. 29, 1936, ch. 104, § 2, 49 Stat. 1151; Feb. 16, 1938, 3 p. m. ch. 30, § 203, 52 Stat. 38; June 30, 1939, ch. 253, title I, 53 Stat. 975; July 3, 1948, ch. 827, title III, § 301, 62 Stat. 1257; Oct. 31, 1949, ch. 792, title IV, § 411, 63 Stat. 1057; Jan. 30, 1954, ch. 2, § 5(b), 68 Stat. 7.)

(15 U.S.C. 713c-2, 713c-3)

**§ 713c-2. Purchase and distribution of surplus fishery products.**

Any part of the funds not to exceed \$1,500,000 per year, created under and to carry out the provisions of section 612c of Title 7, may also be used by the Secretary of Agriculture for the purpose of diverting surplus fishery products (including fish, shellfish, mollusks, and crustacea) from the normal channels of trade and commerce by acquiring them and providing for their distribution through Federal, State, and private relief channels: *Provided*, That none of the funds made available to the Secretary of Agriculture under this section and section 713c-3 of this title shall be used to purchase any of the commodities designated in this section which may have been produced in any foreign country. The provision of laws relating to the acquisition of materials or supplies for the United States shall not apply to the acquisition of commodities under this section and section 713c-3 of this title. (Aug. 11, 1939, ch. 696, § 1, 53 Stat. 1411; 1940 Reorg. Plan No. III, § 5, eff. June 30, 1940, 5 F. R. 2108, 54 Stat. 1232; 1946 Reorg. Plan No. 3, § 501, eff. July 16, 1946, 11 F. R. 7877, 60 Stat. 1100.)

**§ 713c-3. Same; promotion of the free flow of domestically produced fishery products.**

(a) TRANSFER OF FUNDS.

The Secretary of Agriculture shall transfer to the Secretary of the Interior each fiscal year, beginning with the fiscal year commencing July 1, 1954, and ending on June 30, 1957, from moneys made available to carry out the provisions of section 612c of title 7, an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws on fishery products (including fish, shellfish, mollusks, crustacea, aquatic plants and animals, and any products thereof, including processed and manufactured products), which shall be maintained in a separate fund and used by the Secretary of the Interior (1) to promote the free flow of domestically produced fishery products in commerce by conducting a fishery educational service and fishery technological, biological and related research programs, the moneys so transferred to be also available for the purchase or other acquisition, construction, equipment, operation, and maintenance of vessels or other facilities necessary for conducting research as provided for in this section, and (2) to develop and increase markets for

fishery products of domestic origin and (3) to conduct any biological, technological, or other research pertaining to American fisheries.

(d) **RETRANSFER OF FUNDS FOR PURPOSES OF SECTION 713c-2.**

The Secretary of the Interior is further authorized to retransfer any of the funds not to exceed \$1,500,000 to be made available under this section to the Secretary of Agriculture to be used for the purposes specified in section 713c-2 of this title, and only such funds as are thus transferred shall be used for the purposes specified in section 713c-2 of this title with respect to domestically produced fishery products. (Aug. 11, 1939, ch. 696, § 2, 53 Stat. 1412, amended July 1, 1954, ch. 447, 68 Stat. 376; Aug. 8, 1956, ch. 1036, § 12 (b), 70 Stat. 1124.)

**Act of June 28, 1937**

(Formerly 15 U.S.C. 713c)

In carrying out the provisions of clause (2) of section 32 of the Act approved August 24, 1935 (49 Stat. 774), as amended, the Secretary of Agriculture may transfer to the Federal Surplus Commodities Corporation, which Corporation is continued, until June 30, 1945, as an agency of the United States under the direction of the Secretary of Agriculture, such funds, appropriated by said section, as may be necessary for the purpose of effectuating clause (2) of said section: *Provided*, That such transferred funds, together with other funds of the Corporation, may be used for purchasing, exchanging, processing, distributing, disposing, transporting, storing, and handling of agricultural commodities and products thereof and inspection costs, commissions, and other incidental costs and expenses, without regard to the provisions of existing law governing the expenditure of public funds and for administrative expenses, including rent, printing and binding, and the employment of persons and means, in the District of Columbia and elsewhere, such employment of persons to be in accordance with the provisions of law applicable to the employment of persons by the Agricultural Adjustment Administration.

In carrying out clause (2) of section 32, the funds appropriated by said section may be used for the purchase, without regard to the provisions of existing law governing the expenditure of public funds, of agricultural commodities and products thereof, and such commodities, as well as agricultural commodities and products thereof purchased under the preceding paragraph of this section, may be donated for relief purposes. (June 28, 1937, ch. 385, 50 Stat. 323; Feb. 16, 1938, ch. 30, 3 p.m., § 204, 52 Stat. 38; June 27, 1942, ch. 454, 56 Stat. 461.)

**Agricultural Act of 1949**

(Excerpt. 7 U.S.C. 1424)

**§ 1424. Utilization of services and facilities of CCC.**

The Secretary, in carrying out programs under section 612c of this title and section 1755 of title 42, may utilize the services and facilities of the Commodity Credit Corporation (including but not limited to procurement by contract), and make advance payments to it. (Oct. 31, 1949, ch. 792, title IV, § 404, 63 Stat. 1054.)

## **Agricultural Act of 1956**

(7 U.S.C. 1855)

There is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1957, the sum of \$500,000,000 to enable the Secretary of Agriculture to further carry out the provisions of section 612c of this title, subject to all provisions of law relating to the expenditure of funds appropriated by such section, except that up to 50 per centum of such \$500,000,000 may be devoted during any fiscal year to any one agricultural commodity or the products thereof. (May 28, 1956, ch. 327, title II, § 205, 70 Stat. 200.)

### **Pertinent Provisions of Fish and Wildlife Act**

(16 U.S.C. 742a et seq.)

#### **§ 742e. Transfer of functions, personnel, property, facilities, records, and funds; cooperation with other governmental agencies.**

(a) There shall be transferred to the Secretary of the Interior all functions of the Secretary of Agriculture, the Secretary of Commerce, and the head of any other department or agency, as determined by the Director of the Bureau of the Budget to relate primarily to the development, advancement, management, conservation, and protection of commercial fisheries; but nothing in this section shall be construed to modify the authority of the Department of State or the Secretary of State to negotiate or enter into any international agreements, or conventions with respect to the development, management, or protection of any fisheries and wildlife resources or with respect to international commissions operating under conventions to which the United States is a party.

(b) There shall be transferred to the Department of the Interior so much of the personnel, property, facilities, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) as the Director of the Bureau of the Budget determines to be necessary in connection with the exercise of any functions transferred to the Secretary pursuant to subsection (a) of this section.

(c) The Secretary may request and secure the advice or assistance of any department or agency of the Government in carrying out the provisions of sections 742a-742j of this title, and any such department or agency which furnishes advice or assistance to the Secretary may expend its own funds for such purposes, with or without reimbursement from the Secretary as may be agreed upon between the Secretary and the department or agency. (Aug. 8, 1956, ch. 1036, § 6, 70 Stat. 1122.)

#### **§ 742j. Appropriations.**

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 742a-742j of this title. (Aug. 8, 1956, ch. 1036, § 11, 70 Stat. 1124.)

**NOTE.** This Act also contains these provisions :

**Sec. 12.** (a) The authorization for the transfer of certain funds from the Secretary of Agriculture to the Secretary of the Interior

and their maintenance in a separate fund as contained in Section 2 (a) of the Act of August 11, 1939, as amended July 1, 1954 (68 Stat. 376), shall be continued for the year ending June 30, 1957, and each year thereafter.

(b) Subsection (e) of section 2 of the aforesaid Act of August 11, 1939, as amended, is hereby amended to read as follows:

“(e) The separate fund created for the use of the Secretary of the Interior under section 2(a) of this Act and the annual accruals thereto shall be available for each year hereafter until expended by the Secretary.” (15 U.S.C. 713c-3(e).)

## **Price Support of Agricultural Commodities**

### **Agricultural Act of 1949**

(7 U.S.C. 1421 et seq.)

#### **§ 1421. Source of price support; authority of Secretary; factors considered; compliance by producer; time of determining levels.**

(a) The Secretary shall provide the price support authorized or required herein through the Commodity Credit Corporation and other means available to him.

(b) Except as otherwise provided in this Act, the amounts, terms, and conditions of price support operations and the extent to which such operations are carried out, shall be determined or approved by the Secretary. The following factors shall be taken into consideration in determining, in the case of any commodity for which price support is discretionary, whether a price-support operation shall be undertaken and the level of such support and, in the case of any commodity for which price support is mandatory, the level of support in excess of the minimum level prescribed for such commodity: (1) the supply of the commodity in relation to the demand therefor, (2) the price levels at which other commodities are being supported and, in the case of feed grains, the feed values of such grains in relation to corn, (3) the availability of funds, (4) the perishability of the commodity, (5) the importance of the commodity to agriculture and the national economy, (6) the ability to dispose of stocks acquired through a price support operation, (7) the need for offsetting temporary losses of export markets, and (8) the ability and willingness of producers to keep supplies in line with demand.

(c) Compliance by the producer with acreage allotments, production goals and marketing practices (including marketing quotas when authorized by law), prescribed by the Secretary, may be required as a condition of eligibility for price support. In administering any program for diverted acres the Secretary may make his regulations applicable on an appropriate geographical basis. Such regulations shall be administered (1) in semi-arid or other areas where good husbandry requires maintenance of a prudent feed reserve in such manner as to permit, to the extent so required by good husbandry, the production of forage crops for storage and subsequent use either on the farm or in feeding operations of the farm operator, and (2) in areas declared to be

disaster areas by the President under sections 1855-1855g of this title, in such manner as will most quickly restore the normal pattern of their agriculture.

(d) The level of price support for any commodity shall be determined upon the basis of its parity price as of the beginning of the marketing year or season in the case of any commodity marketed on a marketing year or season basis and as of January 1 in the case of any other commodity. (Oct. 31, 1949, ch. 792, Title IV, § 401, 63 Stat. 1054.)

(e) Whenever any price support or surplus removal operation for any agricultural commodity is carried out through purchases from or loans or payments to processors, the Secretary shall, to the extent practicable, obtain from the processors such assurances as he deems adequate that the producers of the agricultural commodity involved have received or will receive maximum benefits from the price support or surplus removal operation. (As amended Aug. 28, 1954, ch. 1041, title II, §§ 206, 207, 68 Stat. 901.)

#### **§ 1422. Increase of price support levels.**

Notwithstanding any other provision of this Act, price support at a level in excess of the maximum level of price support otherwise prescribed in this Act may be made available for any agricultural commodity if the Secretary determines, after a public hearing of which reasonable notice has been given, that price support at such increased level is necessary in order to prevent or alleviate a shortage in the supply of any agricultural commodity essential to the national welfare or in order to increase or maintain the production of any agricultural commodity in the interest of national security. The Secretary's determination and the record of the hearing shall be available to the public. (Oct. 31, 1949, ch. 792, Title IV, § 402, 63 Stat. 1054.)

#### **§ 1423. Adjustment of support prices.**

Appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined as provided in this Act. Middling seven-eighths inch cotton shall be the standard grade for purposes of parity and price support. (Oct. 31, 1949, ch. 792, Title IV, § 403, 63 Stat. 1054.)

#### **§ 1424. Utilization of services and facilities of Commodity Credit Corporation.**

The Secretary, in carrying out programs under section 612c of this title, and section 1755 of Title 42 may utilize the services and facilities of the Commodity Credit Corporation (including but not limited to procurement by contract), and make advance payments to it. (Oct. 31, 1949, ch. 792, Title IV, § 404, 63 Stat. 1054.)

#### **§ 1425. Personal liability of producers for deficiencies.**

No producer shall be personally liable for any deficiency arising from the sale of the collateral securing any loan made under authority of this Act unless such loan was obtained through

fraudulent misrepresentations by the producer. This provision shall not, however, be construed to prevent the Commodity Credit Corporation or the Secretary from requiring producers to assume liability for deficiencies in the grade, quality, or quantity of commodities stored on the farm or delivered by them, for failure properly to care for and preserve commodities, or for failure or refusal to deliver commodities in accordance with the requirements of the program. (Oct. 31, 1949, ch. 792, Title IV, § 405, 63 Stat. 1054.)

**§ 1426. Advance announcement of price support levels; variation of levels.**

The Secretary shall, insofar as practicable, announce the level of price support for field crops in advance of the planting season and for other agricultural commodities in advance of the beginning of the marketing year or season (January 1 in the case of commodities not marketed on a marketing year or season basis), but the level of price support so announced shall not exceed the estimated maximum level of price support specified in this Act, based upon the latest information and statistics available to the Secretary when such level of price support is announced; and the level of price support so announced shall not be reduced if the maximum level of price support when determined, is less than the level so announced. (Oct. 31, 1949, ch 792, Title IV, § 406, 63 Stat. 1055.)

**§ 1427. Sale of farm commodities; policies and rates of sale; exceptions.**

The Commodity Credit Corporation may sell any farm commodity owned or controlled by it at any price not prohibited by this section. In determining sales policies for basic agricultural commodities or storable non-basic commodities, the Corporation should give consideration to the establishing of such policies with respect to prices, terms, and conditions as it determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop. The Corporation shall not sell any basic agricultural commodity or storable non-basic commodity at less than 5 per centum above the current support price for such commodity, plus reasonable carrying charges. The foregoing restrictions shall not apply to (A) sales for new or byproduct uses; (B) sales of peanuts and oilseeds for the extraction of oil; (C) sales for seed or feed if such sales will not substantially impair any price-support program; (D) sales of commodities which have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage; (E) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity; (F) sales for export; (G) sales of wool; and (H) sales for other than primary uses. Notwithstanding the foregoing, the Corporation, on such terms and conditions as the Secretary may deem in the public interest, shall make available any farm commodity or product thereof owned or controlled by it for use in relieving distress (1) in any area in the United States declared by the President to be an acute distress area because of unemployment or other economic cause if the President finds that

such use will not displace or interfere with normal marketing of agricultural commodities and (2) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under sections 1855-1855g of Title 42. Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making such commodity available beyond the cost of the commodities to the Corporation in store and the handling and transportation costs in making delivery of the commodity to designated agencies at one or more central locations in each State. Nor shall the foregoing restrictions apply to sales of commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the Corporation's operations because of the small quantities involved, or because of age, location or questionable continued storability, but such sales shall be offset by such purchases of commodities as the Corporation determines are necessary to prevent such sales from substantially impairing any price-support program, but in no event shall the purchase price exceed the then current support price for such commodities. For the purposes of this section, sales for export shall not only include sales made on condition that the identical commodities sold be exported, but shall also include sales made on condition that commodities of the same kind and of comparable value or quantity be exported, either in raw or processed form. (July 10, 1954, ch. 469, title III, § 301, 68 Stat. 458; July 29, 1954, ch. 643, 68 Stat. 583; Jan. 28, 1956, ch. 14, 70 Stat. 6; Oct. 31, 1949, ch. 792, title IV, § 407, 63 Stat. 1055.)

#### § 1428. Definitions.

For the purposes of this chapter—

(a) A commodity shall be considered storable upon determination by the Secretary that, in normal trade practice, it is stored for substantial periods of time and that it can be stored under the price-support program without excessive loss through deterioration or spoilage or without excessive cost for storage for such periods as will permit its disposition without substantial impairment of the effectiveness of the price-support program.

(b) A "cooperator" with respect to any basic agricultural commodity shall be a producer on whose farm the acreage planted to the commodity does not exceed the farm acreage allotment for the commodity under subchapter II of chapter 35 of this title, or in the case of price support for corn or wheat to a producer outside the commercial corn-producing or wheat-producing area, a producer who complies with conditions of eligibility prescribed by the Secretary. For the purpose of this subsection, a producer shall not be deemed to have exceeded his farm acreage allotment unless such producer knowingly exceeded such allotment.

(c) A "basic agricultural commodity" shall mean corn, cotton, peanuts, rice, tobacco, and wheat, respectively.

(d) A "non-basic agricultural commodity" shall mean any agricultural commodity other than a basic agricultural commodity.

(e) The "supply percentage" as to any commodity shall be the percentage which the estimated total supply is of the normal supply as determined by the Secretary from the latest available statistics of the Department of Agriculture as of the beginning of the marketing year for the commodity.

(f) "Total supply" of any non-basic agricultural commodity for any marketing year shall be the carry-over at the beginning of such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(g) "Carryover" of any non-basic agricultural commodity for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any part of the crop or production of such commodity which was produced in the United States during the calendar year then current. The carryover of any such commodity may also include the quantity of such commodity in processed form on hand in the United States at the beginning of such marketing year, if the Secretary determines that the inclusion of such processed quantity of the commodity is necessary to effectuate the purposes of this Act.

(h) "Normal supply" of any non-basic agricultural commodity for any marketing year shall be (1) the estimated domestic consumption of the commodity for the marketing year for which such normal supply is being determined, plus (2) the estimated exports of the commodity for such marketing year, plus (3) an allowance for carryover. The allowance for carryover shall be the average carryover of the commodity for the five marketing years immediately preceding the marketing year in which such normal supply is determined, adjusted for surpluses or deficiencies caused by abnormal conditions, changes in marketing conditions, or the operation of any agricultural program. In determining normal supply, the Secretary shall make such adjustments for current trends in consumption and for unusual conditions as he may deem necessary.

(i) "Marketing year" for any nonbasic agricultural commodity means any period determined by the Secretary during which substantially all of a crop or production of such commodity is normally marketed by the producers thereof.

(j) Any term defined in the Agricultural Adjustment Act of 1938 shall have the same meaning when used in this Act. (Oct. 31, 1949, ch. 792, Title IV, § 408, 63 Stat. 1055; as amended Aug. 28, 1954, ch. 1041, Title II § 209, 68 Stat. 901.)

#### **§ 1429. Determinations of Secretary as final and conclusive.**

Determinations made by the Secretary under this Act shall be final and conclusive: *Provided*, That the scope and nature of such determinations shall not be inconsistent with the provisions of the Commodity Credit Corporation Charter Act. (Oct. 31, 1949, ch. 792, Title IV, § 412, 63 Stat. 1057.)

#### **§ 1430. Retroactive effect.**

This Act shall not be effective with respect to price support operations for any agricultural commodity for any marketing year or season commencing prior to January 1, 1950, except to the extent that the Secretary of Agriculture shall, without reducing price support theretofore undertaken or announced, elect to apply the provisions of this Act. (Oct. 31, 1949, ch. 792, Title IV, § 413, 63 Stat. 1057.)

**§ 1432. Extension of price support on long staple cotton seeds and products.**

Any price support program in effect on cottonseed or any of its products shall be extended to the same seed and products of the cottons defined under section 1347 (a) of this title. (Oct. 31, 1949, ch. 792, title IV, § 420, as added July 17, 1952, ch. 933, § 3 (2), 66 Stat. 259.)

**§ 1441. Price support levels.**

The Secretary of Agriculture (hereinafter called the "Secretary") is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price of the commodity nor less than the level provided in subsections (a), (b), and (c) of this section as follows:

(a) For tobacco (except as otherwise provided herein), corn, wheat, and rice, if the supply percentage as of the beginning of the marketing year is:	The level of support shall be not less than the following percentage of the parity price:
Not more than 102.....	90
More than 102 but not more than 104.....	89
More than 104 but not more than 106.....	88
More than 106 but not more than 108.....	87
More than 108 but not more than 110.....	86
More than 110 but not more than 112.....	85
More than 112 but not more than 114.....	84
More than 114 but not more than 116.....	83
More than 116 but not more than 118.....	82
More than 118 but not more than 120.....	81
More than 120 but not more than 122.....	80
More than 122 but not more than 124.....	79
More than 124 but not more than 126.....	78
More than 126 but not more than 128.....	77
More than 128 but not more than 130.....	76
More than 130.....	75

(b) For cotton and peanuts, if the supply percentage as of the beginning of the marketing year is:	The level of support shall be not less than the following percentage of the parity price:
Not more than 108.....	90
More than 108 but not more than 110.....	89
More than 110 but not more than 112.....	88
More than 112 but not more than 114.....	87
More than 114 but not more than 116.....	86
More than 116 but not more than 118.....	85
More than 118 but not more than 120.....	84
More than 120 but not more than 122.....	83
More than 122 but not more than 124.....	82
More than 124 but not more than 125.....	81
More than 125 but not more than 126.....	80
More than 126 but not more than 127.....	79
More than 127 but not more than 128.....	78
More than 128 but not more than 129.....	77
More than 129 but not more than 130.....	76
More than 130.....	75

(c) For tobacco, if marketing quotas are in effect, the level of support shall be 90 per centum of the parity price.

(d) Notwithstanding the foregoing provisions of this section—

(1) if the producers have not disapproved marketing quotas for such crop, the level of support to cooperators shall be 90 per centum of the parity price for the 1950 crop of any basic agricultural commodity for which marketing quotas or acreage allotments are in effect;

(2) if producers have not disapproved marketing quotas for such crop, the level of support to cooperators shall be not less than 80 per centum of the parity price for the 1951 crop of any basic agricultural commodity for which marketing quotas or acreage allotments are in effect;

(3) the level of price support to cooperators for any crop of a basic agricultural commodity, except tobacco, for which marketing quotas have been disapproved by producers shall be 50 per centum of the parity price of such commodity; and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;

(4) the level of price support for corn to cooperators outside the commercial corn-producing area shall be 75 per centum of the level of price support to cooperators in the commercial corn-producing area;

(5) price support may be made available to noncooperators at such levels, not in excess of the level of price support to cooperators, as the Secretary determines will facilitate the effective operation of the program.

(6) Except as provided in subsection (c) of this section and section 1422 of this title, the level of support to cooperators shall be not more than 90 per centum and not less than 82½ per centum of the parity price for the 1955 crop of any basic agricultural commodity with respect to which producers have not disapproved marketing quotas; within such limits, the minimum level of support shall be fixed as provided in subsections (a) and (b) of this section.

(7) Where a State is designated under section 1335 (e) of this title, as outside the commercial wheat-producing area for any crop of wheat, the level of price support for wheat to cooperators in such State for such crop of wheat shall be 75 per centum of the level of price support to cooperators in the commercial wheat-producing area.

(e) Notwithstanding any of the provisions of this Act, section 2 of the Act of July 28, 1945 (59 Stat. 506), shall continue in effect.

(f) The provisions of this chapter relating to price support for cotton shall apply severally to (1) American upland cotton and (2) extra long staple cotton described in subsection (a) of section 1347 of this title and ginned as required by subsection (e) of section 1347 of this title, except that, notwithstanding any of the foregoing provisions of this section, the level of support to cooperators for the 1955 and each subsequent crop of extra long staple cotton, if producers have not disapproved marketing quotas therefor, shall be the minimum level specified in subsection (b) of this section for the supply percentage for extra long staple cotton as of the beginning of the marketing year for the crop. Disapproval by producers of the quota proclaimed under section 1347 of this title shall place into effect the provisions of subsection (d) (3) of this section with respect to the extra long staple cotton

described in subsection (a) of section 1347 of this title. Nothing contained herein shall affect the authority of the Secretary under section 1422 of this title to make support available for extra long staple cotton in accordance with section 1422 of this title. (Oct. 31, 1949, ch. 792, title I, § 101, 63 Stat. 1051; July 17, 1952, ch. 933, § 2, 3, (1), 66 Stat. 759; Aug. 28, 1954, ch. 1041, title II, §§ 201, 202, 68 Stat. 899.)

#### **§ 1442. Price support and acreage requirements for corn and other feed grains.**

##### **(a) CONDITIONS OF ELIGIBILITY.**

Notwithstanding any other provision of law, whenever base acreages are in effect for corn, the Secretary shall require, as a condition of eligibility for price support on corn, that the producer (1) devote an acreage of cropland (tilled in normal rotation), at the option of the producer, to either the acreage reserve program for corn or the conservation reserve program, equal to 15 per centum of such producer's farm base acreage for corn, and (2) not exceed such farm base acreage for corn: *Provided*, That price support may be made available to any producer who does not meet the foregoing requirements at such level, not in excess of the level of price support to producers who meet such requirements, as the Secretary determines will facilitate the effective operation of the price support program. Corn acreage allotments shall not be effective for the 1956 crop.

##### **(b) REFERENDUM OF PRODUCERS OF CORN.**

Not later than December 15, 1956, the Secretary shall conduct a referendum of producers of corn in 1956 in the commercial corn-producing area to determine whether such producers favor a price-support program as provided in subsection (c) of this section for the 1957 and subsequent crops in lieu of acreage allotments as provided in the Agricultural Adjustment Act of 1938, as amended, and price support as provided in section 1441 of this title.

##### **(c) RESTRICTION ON ACREAGE ALLOTMENT OF CORN; PRICE SUPPORT LEVEL.**

Notwithstanding any other provision of law, if two-thirds or more of the producers voting in the referendum conducted pursuant to subsection (b) of this section favor a price-support program as provided in this subsection, no acreage allotment of corn shall be established for the commercial corn-producing area for any county, or for any farm, with respect to the 1957 and subsequent crops, and price support made available for such crops by Commodity Credit Corporation shall be at such level as the Secretary determines will assist producers in marketing corn in the normal channels of trade but not encourage the uneconomic production of corn.

##### **(d) PRICE SUPPORT LEVEL FOR 1956 AND 1957 CROPS OF GRAIN SORGHUMS, BARLEY, RYE, OATS, AND CORN.**

Notwithstanding any other provision of law, (1) the level of price support for the 1956 crop of grain sorghums, barley, rye, and oats, respectively, shall be 76 per centum of the parity price for the commodity as of May 1, 1956, (2) the level of price support for corn produced outside the commercial corn-producing area,

for any crop for which base acreages are in effect (except as provided in (3) below), shall be 82½ per centum of the level of price support for corn in the commercial corn-producing area to producers complying with acreage limitation, and (3) if price support is made available for the 1957 crop of corn in the commercial corn-producing area to producers not complying with acreage limitations, price support shall be made available for the 1957 crop of grain sorghums, barley, rye, oats, and corn produced outside the commercial corn-producing area, respectively, at a level, not less than 70 per centum of the parity price as of the beginning of the marketing year, determined by the Secretary to be fair and reasonable in relation to the level at which price support is made available for corn in the commercial corn-producing area to producers not complying with acreage limitations, taking into consideration the normal price relationships between such commodity and corn in the commercial area, the feed value of such commodity in relation to corn, the supply of such commodity in relation to the demand therefor, and the ability to dispose of stocks of such commodity acquired through price support programs. (May 28, 1956, ch. 327, title III, § 308, 70 Stat. 206.)

**§ 1446. Price support levels for designated nonbasic agricultural commodities.**

The Secretary is authorized and directed to make available (without regard to the provisions of sections 1447-1449 of this title) price support to producers for tung nuts, honey, milk, butterfat, and the products of milk and butterfat as follows:

(b) The price of tung nuts and honey, respectively, shall be supported through loans, purchases, or other operations at a level not in excess of 90 per centum nor less than 60 per centum of the parity price therefor;

(c) The price of whole milk, butterfat, and the products of such commodities, respectively, shall be supported at such level not in excess of 90 per centum nor less than 75 per centum of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply. Such price support shall be provided through loans on, or purchases of, milk and the products of milk and butterfat, and for the period ending March 31, 1956, surplus stocks of dairy products owned by the Commodity Credit Corporation may be disposed of by any methods determined necessary by the Secretary. For the period beginning September 1, 1954, and ending June 30, 1955, not to exceed \$50,000,000, and for the fiscal year ending June 30, 1956, not to exceed \$60,000,000, and for each of the two fiscal years in the period beginning July 1, 1956, and ending June 30, 1958, not to exceed \$75,000,000 of the funds of the Commodity Credit Corporation shall be used to increase the consumption of fluid milk by children in (1) nonprofit schools of high-school grade and under; and in (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. (Oct. 31, 1949, ch. 792, title II, § 201, 63 Stat. 1052; Aug. 28, 1954, ch. 1041, title II, §§ 203 (a), 204 (b), title VII, § 709, 68 Stat. 899, 912; Apr. 2, 1956, ch. 159, § 1 70 Stat. 87; July 20, 1956, ch. 661, 70 Stat. 596.)

**§ 1446a. Dairy products—availability through Commodity Credit Corporation.**

As a means of increasing the utilization of dairy products, (including for purposes of this section, milk) upon the certification by the Administrator of Veterans' Affairs or by the Secretary of the Army, acting for the military departments under the Department of Defense's Single Service Purchase Assignment for Subsistence, or their duly authorized representatives that the usual quantities of dairy products have been purchased in the normal channels of trade—

**(a) ADMINISTRATOR OF VETERAN AFFAIRS; NEEDS; REPORT TO CONGRESS.**

The Commodity Credit Corporation until December 31, 1958, shall make available to the Administrator of Veterans' Affairs at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Administrator certifies that he requires in order to provide butter and cheese and other dairy products as a part of the ration in hospitals under his jurisdiction. The Administrator shall report monthly to the Committees on Agriculture of the Senate and House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

**(b) SECRETARY OF THE ARMY; NEEDS; REPORT TO CONGRESS.**

The Commodity Credit Corporation until December 31, 1958, shall make available to the Secretary of the Army, at warehouses where dairy products are stored, such dairy products acquired under price-support programs as the Secretary of the Army or his duly authorized representative certified can be utilized in order to provide additional butter and cheese and other dairy products as a part of the ration of the Army, Navy, or Air Force, and as a part of the ration in hospitals under the jurisdiction of the Department of Defense. The Secretary of the Army shall report every six months to the Committees on Agriculture of the Senate and the House of Representatives and the Secretary of Agriculture the amount of dairy products used under this subsection.

**(c) COSTS.**

Dairy products made available under this section shall be made available without charge, except that the Secretary of the Army or the Administrator of Veterans' Affairs shall pay the Commodity Credit Corporation the costs of packaging incurred in making such products so available.

**(d) DAIRY PRODUCTS AVAILABLE.**

The obligation of the Commodity Credit Corporation to make dairy products available pursuant to the above shall be limited to dairy products acquired by the Corporation through price-support operations and not disposed of under provisions (1) and (2) of section 1431 of this title. (Oct. 31, 1949, ch. 792, title II, § 201, 63 Stat. 1052, as added Aug. 28, 1954, ch. 1041, title II, § 204 (d), 68 Stat. 900, and amended Apr. 2, 1956, ch. 159 § 3, 70 Stat. 87.)

### **§ 1446b. Policy with regard to dairy products.**

The production and use of abundant supplies of high quality milk and dairy products are essential to the health and general welfare of the Nation; a dependable domestic source of supply of these foods in the form of high grade dairy herds and modern, sanitary dairy equipment is important to the national defense; and an economically sound dairy industry affects beneficially the economy of the country as a whole. It is the policy of Congress to assure a stabilized annual production of adequate supplies of milk and dairy products; to promote the increased use of these essential foods; to improve the domestic source of supply of milk and butterfat by encouraging dairy farmers to develop efficient production units consisting of high-grade, disease-free cattle and modern sanitary equipment; and to stabilize the economy of dairy farmers at a level which will provide a fair return for their labor and investment when compared with the cost of things that farmers buy. (Aug. 28, 1954, ch. 1041, title II, § 204 (a), 68 Stat. 899.)

### **§ 1446c. Domestic disposal programs for dairy products.**

In order to prevent the accumulation of excessive inventories of dairy products the Secretary of Agriculture shall undertake domestic disposal programs under authorities granted in the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949, as amended, or as otherwise authorized by law. (Aug. 28, 1954, ch. 1041, title II, §204 (c), 68 Stat. 900.)

### **§ 1446d. Price support levels for cottonseed and soybeans.**

Whenever the price of either cottonseed or soybeans is supported under this Act, the price of the other shall be supported at such level as the Secretary determines will cause them to compete on equal terms on the market. (Oct. 31, 1949, ch. 792, title II, § 203, as added May 28, 1956, ch. 327, title VI, § 601 (a), 70 Stat. 212.)

## **Domestic Disposition of Surplus Commodities**

### **Agricultural Act of 1949**

(7 U.S.C. 1431)

### **§ 1431. Disposition of commodities to prevent waste; eligible recipients; barter; estimates; reprocessing and other charges.**

In order to prevent the waste of commodities acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies

as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served; and (4) to donate any such food commodities in excess of anticipated disposition under clauses (1), (2), and (3) above to nonprofit voluntary agencies registered with the Committee on Voluntary Foreign Aid of the Foreign Operations Administration or other appropriate department or agency of the Federal Government and intergovernmental organizations for use in the assistance of needy persons outside the United States. In the case of (3) and (4) above the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under clauses (3) and (4) above. The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency or to the designated State or private agency, in the case of commodities made available for use within the United States, or their delivery free alongside ship or free on board export carrier at point of export, in the case of commodities made available for use outside the United States. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. (Oct. 31, 1949, ch. 792, title IV, § 416, 63 Stat. 1058; July 10, 1954, ch. 469, title III, § 302, 68 Stat. 458; May 28, 1956, ch. 327, title II, § 212, 70 Stat. 203.)

## **Agricultural Act of 1956**

(7 U.S.C. 1859)

### **§ 1859. Donation to penal and correctional institutions.**

Notwithstanding any other limitations as to the disposal of surplus commodities acquired through price support operations, the Commodity Credit Corporation is authorized on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest, and upon application, to donate food commodities acquired through price support operations to Federal penal and correctional institutions, and to State correctional institutions for minors, other than those in which food service is provided for inmates on a fee, contract, or concession basis. (May 28, 1956, ch. 327, title II, § 210, 70 Stat. 202.)

# National School Lunch Act

(42 U.S.C. 1751-1760)

## § 1751. Congressional declaration of policy.

It is declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school-lunch programs. (June 4, 1946, ch. 281, § 2, 60 Stat. 230.)

## § 1752. Appropriations.

For each fiscal year, beginning with the fiscal year ending June 30, 1947, there is authorized to be appropriated out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as "the Secretary") to carry out the provisions of this chapter. (June 4, 1946, ch. 281, § 3, 60 Stat. 230.)

## § 1753. Apportionments to States; definition.

The sums appropriated for any fiscal year pursuant to the authorization contained in section 1752 of this title, excluding the sum specified in section 1754 of this title, shall be available to the Secretary for supplying, during such fiscal year, agricultural commodities and other foods for the school-lunch program in accordance with the provisions of this chapter. The Secretary shall apportion among the States during each fiscal year not less than 75 per centum of the aforesaid funds made available for such year for supplying agricultural commodities and other foods under the provisions of this chapter. The total of such apportionments of funds for use in Puerto Rico, Guam, and the Virgin Islands shall not exceed 3 per centum of the funds appropriated for agricultural commodities and other foods for the school-lunch program; except that in the case of the first apportionments of funds from any annual or supplemental appropriation (and only in such case), the apportionment for Puerto Rico, the apportionment for Guam, and the apportionment for the Virgin Islands, shall be not less than that amount which will result in an allotment per child of school age equal to the allotment per child of school age in the State (other than Puerto Rico, Guam, and the Virgin Islands) having the lowest per capita income among the States participating in such first apportionments. Apportionment among the States shall be made on the basis of two factors: (1) The number of school children in the State and (2) the need for assistance in the State as indicated by the relation of the per capita income in the United States to the per capita income in the State. The amount of the initial apportionment to any State shall be determined by the following method: First, determine an index for the State by multiplying factors (1) and (2); second, divide this index by the sum of the indices for all the States; and, finally, apply the figure thus obtained to the total funds to be apportioned. For the purpose of this section, the number of school children in

the State shall be the number of children therein between the ages of five and seventeen, inclusive; such figures and per capita income figures shall be the latest figures certified by the Department of Commerce. For the purposes of this chapter, "school" means any public or nonprofit private school of high-school grade or under and, with respect to Puerto Rico, shall also include nonprofit child-care centers certified as such by the Governor of Puerto Rico. If any State cannot utilize all funds so apportioned to it, or if additional funds are available under this chapter for apportionment among the States, the Secretary shall make further apportionments to the remaining States in the same manner. (June 4, 1946, ch. 281, § 4, 60 Stat. 230; July 12, 1952, ch. 699, § 1 (a), 66 Stat. 591.)

#### **§ 1754. Nonfood assistance; amount; apportionment.**

Of the sums appropriated for any fiscal year pursuant to the authorization contained in section 1752 of this title, \$10,000,000 shall be available to the Secretary for the purpose of providing, during such fiscal year, nonfood assistance for the school-lunch program pursuant to the provisions of this chapter. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of \$10,000,000, and such apportionment among the States shall be on the basis of the factors, and in accordance with the standards, set forth in section 1753 of this title with respect to the apportionment for agricultural commodities and other foods. Apportionments of funds for use in Puerto Rico, Guam, and the Virgin Islands for nonfood assistance shall be determined subject to the provisions of the third sentence of section 1753 of this title. (June 4, 1946, ch. 281, § 5, 60 Stat. 231; July 12, 1952, ch. 699, § 1 (b), 66 Stat. 591.)

#### **§ 1755. Direct expenditures for agricultural commodities and other foods.**

The funds appropriated for any fiscal year for carrying out the provisions of this chapter, less not to exceed 3½ per centum thereof made available to the Secretary for his administrative expenses and less the amount apportioned by him pursuant to sections 1753, 1754, and 1759 of this title, shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools participating in the school-lunch program under this chapter in accordance with the needs as determined by the local school authorities. The provisions of law contained in the proviso of section 713c of Title 15, facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 612c of Title 7, shall, to the extent not inconsistent with the provisions of this chapter, also be applicable to expenditures of funds by the Secretary under this chapter. (June 4, 1946, ch. 281, § 6, 60 Stat. 231.)

#### **§ 1756. Payments to States; matching payments by States.**

Funds apportioned to any State pursuant to sections 1753 or 1754 of this title during any fiscal year shall be available for payment to such State for disbursement by the State educational agency, in accordance with such agreements not inconsistent with

the provisions of this chapter, as may be entered into by the Secretary and such State educational agency, for the purpose of assisting schools of that State during such fiscal year, in supplying (1) agricultural commodities and other foods for consumption by children and (2) nonfood assistance in furtherance of the school-lunch program authorized under this chapter. Such payments to any State in any fiscal year during the period 1947 to 1950, inclusive, shall be made upon condition that each dollar thereof will be matched during such year by \$1 from sources within the State determined by the Secretary to have been expended in connection with the school-lunch program under this chapter. Such payments in any fiscal year during the period 1951 to 1955, inclusive, shall be made upon condition that each dollar thereof will be so matched by one and one-half dollars; and for any fiscal year thereafter, such payments shall be made upon condition that each dollar will be so matched by \$3. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any fiscal year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of determining whether the matching requirements of this section and section 1759 of this title, respectively, have been met, the reasonable value of donated services, supplies, facilities, and equipment as certified, respectively, by the State educational agency and in case of schools receiving funds pursuant to section 1759 of this title, by such schools (but not the cost or value of land, of the acquisition, construction, or alteration of buildings of commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school-lunch program. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified. (June 4, 1946, ch. 281, § 7, 60 Stat. 232.)

**§ 1757. State disbursement to schools; purpose; food costs; limitation.**

Funds paid to any State during any fiscal year pursuant to sections 1753 or 1754 of this title shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school-lunch program. Such disbursement, to any school shall be made only for the purpose of reimbursing it for the cost of obtaining agricultural commodities and other foods for consumption by children in the school-lunch program and nonfood assistance in connection with such program. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multi-

plying the number of lunches served in the school in the school-lunch program under this chapter during such year by the maximum Federal food-cost contribution rate for the State, for the type of lunch served, as prescribed by the Secretary. (June 4, 1946, ch. 281, § 8, 60 Stat. 232.)

**§ 1758. Nutritional and other program requirements; donation of agricultural commodities.**

Lunches served by schools participating in the school-lunch program under this chapter shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost or at a reduced cost to children who are determined by local school authorities to be unable to pay the full cost of the lunch. No physical segregation of or other discrimination against any child shall be made by the school because of his inability to pay. School-lunch programs under this chapter shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program, commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or commodities donated by the Secretary. Commodities purchased under the authority of section 612c of Title 7 may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school-lunch program under this chapter as well as to other schools carrying out nonprofit school-lunch programs and institutions authorized to receive such commodities. (June 4, 1946, ch. 281, § 9, 60 Stat. 233.)

**§ 1759. Disbursement to nonprofit private schools; conditions.**

If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this chapter to nonprofit private schools in the State, or is not permitted by law to match Federal funds made available for use by such nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under sections 1753 and 1754 of this title the same proportion of the funds as the number of children between the ages of five and seventeen, inclusive, attending nonprofit private schools within the State is of the total number of persons of those ages within the State attending school. The Secretary shall disburse the funds so withheld directly to the nonprofit private schools within said State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to schools within the State by the State educational agency, including the requirement that any such payment or payments shall be matched, in the proportion specified in section 1756 of this title for such State, by funds from sources within the State expended by nonprofit private schools within the State participating in the school-lunch program under this chapter. Such funds shall not be considered a part of the funds constituting the matching funds under the terms of section 1756 of this title. (June 4, 1946, ch. 281, § 10, 60 Stat. 233.)

**§ 1760. State accounts and records; inspection and audit; period of retention; definition.**

(a) States, State educational agencies, and schools participat-

ing in the school-lunch program under this chapter shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this chapter are being complied with. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) The Secretary shall incorporate, in his agreements with the State educational agencies, the express requirements under this chapter with respect to the operation of the school-lunch program under this chapter insofar as they may be applicable and such other provisions as in his opinion are reasonably necessary or appropriate to effectuate the purposes of this chapter.

(c) In carrying out the provisions of this chapter, neither the Secretary nor the State shall impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school. If a State maintains separate schools for minority and for majority races, no funds made available pursuant to this chapter shall be paid or disbursed to it unless a just and equitable distribution is made within the State, for the benefit of such minority races, of funds paid to it, under this chapter.

(d) For the purposes of this chapter—

(1) "State" includes any of the forty-eight States and the District of Columbia, Hawaii, Puerto Rico, Alaska, Guam, and the Virgin Islands.

(2) "State educational agency" means, as the State legislature may determine, (a) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (b) a board of education controlling the State department of education; except that in the District of Columbia it shall mean the Board of Education, and except that for the period ending June 30, 1948, "State educational agency" may mean any agency or agencies within the State designated by the Governor to carry out the functions herein required of a State educational agency.

(3) "Nonprofit private school" means any private school exempt from income tax under section 101 (6) of Title 26.

(4) "Nonfood assistance" means equipment used on school premises in storing, preparing, or serving food for school children. (June 4, 1946, ch. 281, § 11, 60 Stat. 233; July 12, 1952, ch. 699, § 1, (c), 66 Stat. 591.)

## **Special School Milk Program**

(7 U.S.C. 1446(c))

(Excerpt—last sentence.)

For the period beginning September 1, 1954, and ending June 30, 1955, not to exceed \$50,000,000, and for the fiscal year ending June 30, 1956, not to exceed \$60,000,000, and for each of the two fiscal years in the period beginning July 1, 1956, and ending June 30, 1958, not to exceed \$75,000,000, of the funds of the Commodity Credit Corporation shall be used to increase the consumption of fluid milk by children in (1) nonprofit schools of high school grade

and under; and in (2) nonprofit nursery schools, child care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. (July 20, 1956, ch. 661, 70 Stat. 596.)

## **Agricultural Trade Development and Assistance Act of 1954**

(7 U.S.C. 1691-1724)

### **§ 1691. Declaration of policy.**

It is declared to be the policy of Congress to expand international trade among the United States and friendly nations, to facilitate the convertibility of currency, to promote the economic stability of American agriculture and the national welfare, to make maximum efficient use of surplus agricultural commodities in furtherance of the foreign policy of the United States, and to stimulate and facilitate the expansion of foreign trade in agricultural commodities produced in the United States by providing a means whereby surplus agricultural commodities in excess of the usual marketings of such commodities may be sold through private trade channels, and foreign currencies accepted in payment therefor. It is further the policy to use foreign currencies which accrue to the United States under this chapter to expand international trade, to encourage economic development, to purchase strategic materials, to pay United States obligations abroad, to promote collective strength, and to foster in other ways the foreign policy of the United States. (July 10, 1954, ch. 469, § 2, 68 Stat. 454.)

### **§ 1692. Bartering authority of Secretary; exchange for strategic materials and materials for other purposes; cooperation of agencies; assistance to cooperatives.**

Whenever the Secretary of Agriculture has reason to believe that, in addition to other authorized methods and means of disposing of agricultural commodities owned by the Commodity Credit Corporation, there may be opportunity to protect the funds and assets of the Commodity Credit Corporation by barter or exchange of such agricultural commodities for (a) strategic materials entailing less risk of loss through deterioration or substantially less storage charges, or (b) materials, goods or equipment required in connection with foreign economic and military aid and assistance programs, or (c) materials or equipment required in substantial quantities for offshore construction programs, he is directed to use every practicable means, in cooperation with other Government agencies, to arrange and make, through private trade channels, such barters or exchanges or to utilize the authority conferred on him by section 714b (h) of title 15, to make such barters or exchanges. Agencies of the United States Government procuring such materials, goods or equipment are directed to cooperate with the Secretary in the disposal of surplus agricultural commodities by means of barter or exchange. Strategic materials so acquired by the Commodity Credit Corporation shall be considered as assets of the Corporation and other agencies of the Government, in purchasing strategic

materials, shall purchase such materials from Commodity Credit Corporation inventories to the extent available in fulfillment of their requirements. The Secretary is also directed to assist, through such means as are available to him, farmers' cooperatives in effecting exchange of agricultural commodities in their possession for strategic materials. (July 10, 1954, ch. 469, title III, § 303, 68 Stat. 459.)

**§ 1693. Assistance to friendly nations in being independent of Russian trade; prevention of increased availability of commodities to unfriendly nations.**

The President shall exercise the authority contained in this chapter and sections 1427 and 1431 of this title (1) to assist friendly nations to be independent of trade with the U. S. S. R. or nations dominated or controlled by the U. S. S. R. for food, raw materials and markets, and (2) to assure that agricultural commodities sold or transferred under this chapter and sections 1427 and 1431 of this title do not result in increased availability of those or like commodities to unfriendly nations. (July 10, 1954, ch. 469, title III, § 304, 68 Stat. 459.)

**§ 1694. Identification of packages and containers by appropriate markings.**

All Commodity Credit Corporation stocks disposed of under subchapter III of this chapter and section 1431 of this title shall be clearly identified by, as far as practical, appropriate marking on each package or container as being furnished by the people of the United States of America. (July 10, 1954, ch. 469, title III, § 305, 68 Stat. 459.)

**§ 1701. Agreements with friendly nations and organizations; conditions.**

In furtherance of the policy declared in section 1691 of this title, the President is authorized to negotiate and carry out agreements with friendly nations or organizations of friendly nations to provide for the sale of surplus agricultural commodities for foreign currencies. In negotiating such agreements the President shall—

(a) take reasonable precautions to safeguard usual marketings of the United States and to assure that sales under this chapter and sections 1427 and 1431 of this title will not unduly disrupt world prices of agricultural commodities;

(b) take appropriate steps to assure that private trade channels are used to the maximum extent practicable both with respect to sales from privately owned stocks and from stocks owned by the Commodity Credit Corporation;

(c) give special consideration to utilizing the authority and funds provided by this chapter and sections 1427 and 1431 of this title, in order to develop and expand continuous market demand abroad for agricultural commodities, with appropriate emphasis on underdeveloped and new market areas;

(d) seek and secure commitments from participating coun-

tries that will prevent resale or transshipment to other countries, or use for other than domestic purposes, of surplus agricultural commodities purchased under this chapter and sections 1427 and 1431 of this title without specific approval of the President; and

(e) afford any friendly nation the maximum opportunity to purchase surplus agricultural commodities from the United States, taking into consideration the opportunities to achieve the declared policy of this chapter and sections 1427 and 1431 of this title and to make effective use of the foreign currencies received to carry out the purposes of this chapter and said sections. (July 10, 1954, ch. 469, title I, § 101, 68 Stat. 455.)

## § 1702. Same.

(a) Availability of stocks acquired in price support operations, privately owned stocks, and funds.

For the purpose of carrying out agreements concluded by the President under this chapter and sections 1427 and 1431 of this title, the Commodity Credit Corporation, in accordance with regulations issued by the President pursuant to subsection (b) of this section, (1) shall make available for sale, under this chapter and sections 1427 and 1431 of this title, to domestic exporters surplus agricultural commodities heretofore or hereafter acquired by the Corporation in the administration of its price-support operations, and (2) shall make funds available to finance the sale and exportation of surplus agricultural commodities, whether from private stocks or from stocks of the Commodity Credit Corporation. In supplying such commodities to exporters under this subsection the Commodity Credit Corporation shall not be subject to the sales price restrictions in section 1427 of this title.

The commodity set-aside established for any commodity under section 1741 of this title shall be reduced by a quantity equal to the quantity of such commodity financed under this chapter and sections 1427 and 1431 of this title, which is exported from private stocks.

(b) Letters of commitment against funds or guaranties; establishment of accounts. In order to facilitate and maximize the use of private channels of trade in carrying out agreements entered into pursuant to this chapter and sections 1427 and 1431 of this title, the President may, under such regulations and subject to such safeguards as he deems appropriate, provide for the issuance of letters of commitment against funds or guaranties of funds supplied by the Commodity Credit Corporation and for this purpose accounts may be established on the books of any department, agency, or establishment of the Government, or on terms and conditions approved by the Secretary of the Treasury in banking institutions in the United States. Such letters of commitment, when issued, shall constitute obligations of the United States and moneys due or to become due thereunder shall be assignable under the Assignment of Claims Act of 1940. Expenditures of funds which have been made available through accounts so established shall be accounted for on standard documentation required for expenditures of Government funds. (July 10, 1954, ch. 469, title I, § 102, 68 Stat. 455, amended April 25, 1955, ch. 27, 69 Stat. 44.)

**§ 1703. Appropriations for reimbursement of Commodity Credit Corporation; advance use of other funds; limitation on transactions.**

(a) For the purpose of making payment to the Commodity Credit Corporation to the extent the Commodity Credit Corporation is not reimbursed under section 1705 of this title for commodities disposed of and costs incurred under subchapters II and III of this chapter, there are authorized to be appropriated such sums as are equal to (1) the Corporation's investment in commodities made available for export under this subchapter and subchapter III of this chapter, including processing, packaging, transportation, and handling costs, (2) all costs incurred by the Corporation in making funds available to finance the exportation of surplus agricultural commodities pursuant to this subchapter, and (3) all Commodity Credit Corporation funds expended for ocean freight costs authorized under subchapter III of this chapter for purposes of section 1431 of this title. Any funds or other assets available to the Commodity Credit Corporation may be used in advance of such appropriation or payments, for carrying out the purposes of this chapter and sections 1427 and 1431 of this title.

(b) Transactions shall not be carried out under this subchapter which will call for appropriations to reimburse the Commodity Credit Corporation, pursuant to subsection (a) of this section, in amounts in excess of \$3,000,000,000. This limitation shall not be apportioned by year or by country, but shall be considered as an objective as well as a limitation, to be reached as rapidly as possible so long as the purposes of this chapter and sections 1427 and 1431 of this title can be achieved within the safeguards established. (July 10, 1954, ch. 469, title I, § 103, 68 Stat. 456, amended Aug. 12, 1955, ch. 873, § 1, 69 Stat. 721; May 28, 1956, ch. 327, title II, §208(a) 70 Stat. 201; August 3, 1956, ch. 933, § 1, 70 Stat. 988.)

**§ 1704. Purposes for which foreign currencies may be used.**

Notwithstanding section 724 of title 31, or any other provision of law, the President may use or enter into agreements with friendly nations or organizations of nations to use the foreign currencies which accrue under this subchapter for one or more of the following purposes:

(a) To help develop new markets for United States agricultural commodities on a mutually benefiting basis;

(b) To purchase or contract to purchase strategic and critical materials, within the applicable terms of the Strategic and Critical Materials Stockpile Act, for a supplemental United States stockpile or such materials as the President may determine from time to time under contracts, including advance payment contracts, for supply extending over periods up to ten years. All strategic and critical materials acquired under authority of this title shall be placed in the above named supplemental stockpile and may be additional to the amounts acquired under authority of the Strategic and Critical Materials Stockpile Act. Materials so acquired shall be released from the supplemental stockpile only under the provisions of section 98b of title 50;

(c) To procure military equipment, materials, facilities, and services for the common defense;

(d) For financing the purchase of goods or services for other friendly countries;

(e) For promoting balanced economic development and trade among nations;

(f) To pay United States obligations abroad;

(g) For loans to promote multilateral trade and economic development, made through established banking facilities of the friendly nation from which the foreign currency was obtained or in any other manner which the President may deem to be appropriate. Strategic materials, services, or foreign currencies may be accepted in payment of such loans;

(h) For the financing of international educational exchange activities under the programs authorized by section 1641 (b) (2) of the Appendix to Title 50. In the allocation of funds as among the various purposes set forth in this section, a special effort shall be made to provide for the purposes of this subsection, including a particular effort with regard to: (1) countries where adequate funds are not available from other sources for such purposes, and (2) countries where agreements can be negotiated to establish a fund with the interest and principal available over a period of years for such purposes;

(i) For financing the translation, publication, and distribution of books and periodicals, including Government publications, abroad: *Provided*, That not more than \$5,000,000 may be allocated for this purpose during any fiscal year;

(j) For providing assistance to activities and projects authorized by section 1448 of Title 22, but no foreign currencies which are available under the terms of any agreement for appropriation for the general use of the United States shall be used for the purposes of this subsection without appropriation therefor:

*Provided, however*, That section 724 of title 31 shall apply to all foreign currencies used for grants under subsections (d) and (e) of this section and for payment of United States obligations involving grants under subsection (f) of this section and to not less than 10 per centum of the foreign currencies which accrue under this title: *Provided, however*, That the President is authorized to waive such applicability of section 724 of title 31 in any case where he determines that it would be inappropriate or inconsistent with the purposes of this subchapter. (July 10, 1954, ch. 469, title I, § 104, 68 Stat. 456, amended Aug. 26, 1954, ch. 937, § 544 (h), (i), as added July 18, 1956, ch. 627, § 11 (a), 70 Stat. 563, and amended Aug. 3, 1956, ch. 933, § 2, 70 Stat. 988.)

**§ 1705. Deposit of foreign currencies in special account; reimbursements to Commodity Credit Corporation of sums used by other agencies.**

Foreign currencies received pursuant to this subchapter shall be deposited in a special account to the credit of the United States and shall be used only pursuant to section 1704 of this title, and any department or agency of the government using any of such currencies for a purpose for which funds have been appropriated

shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used. (July 10, 1954, ch. 469, title I, § 105, 68 Stat. 457.)

**§ 1706. Definition of “surplus agricultural commodity”; determination of nations with whom agreements shall be negotiated.**

As used in this chapter and sections 1427 and 1431 of this title, “surplus agricultural commodity” shall mean any agricultural commodity or product thereof, class, kind, type, or other specification thereof, produced in the United States, either privately or publicly owned, which is or may be reasonably expected to be in excess of domestic requirements, adequate carryover, and anticipated exports for dollars, as determined by the Secretary of Agriculture. The Secretary of Agriculture is also authorized to determine the nations with whom agreements shall be negotiated, and to determine the commodities and quantities thereof which may be included in the negotiations with each country after advising with other agencies of Government affected and within broad policies laid down by the President for implementing this chapter and sections 1427 and 1431 of this title. (July 10, 1954, ch. 469, title I, § 106, 68 Stat. 457, amended Aug. 12, 1955, ch. 873, § 2, 69 Stat. 721.)

**§ 1707. Definition of “friendly nation.”**

As used in this chapter and sections 1427 and 1431 of this title, “friendly nation” means any country other than (1) the U.S.S.R., or (2) any nation or area dominated or controlled by the foreign government or foreign organization controlling the world Communist movement. (July 10, 1954, ch. 469, title I, § 107, 68 Stat. 457.)

**§ 1708. Reports to Congress by President.**

The President shall make a report to Congress with respect to the activities carried on under this chapter and sections 1427 and 1431 of this title, at least once each six months and at such other times as may be appropriate and such reports shall include the dollar value, at the exchange rates in effect at the time of the sale, of the foreign currency for which commodities exported pursuant to section 1702 (a) of this title are sold. (July 10, 1954, ch. 469, title I, § 108, 68 Stat. 457.)

**§ 1709. Termination date for transactions under this subchapter.**

No transactions shall be undertaken under authority of this subchapter after June 30, 1957, except as required pursuant to agreements theretofore entered into pursuant to this subchapter. (July 10, 1954, ch. 469, title I, § 109, 68 Stat. 457.)

**§ 1721. Availability of surplus agricultural commodities for emergency relief of friendly peoples.**

In order to enable the President to furnish emergency assistance on behalf of the people of the United States to friendly peoples in meeting famine or other urgent or extraordinary relief requirements, the Commodity Credit Corporation shall make available to the President out of its stocks such surplus agricultural commodities (as defined in section 1706 of this title) as he may

request, for transfer (1) to any nation friendly to the United States in order to meet famine or other urgent or extraordinary relief requirements of such nation, and (2) to friendly but needy populations without regard to the friendliness of their government. (July 10, 1954, ch. 469, title II, § 201, 68 Stat. 457, amended May 28, 1956, ch. 327, title II, § 208 (b), 70 Stat. 201; Aug. 3, 1956, ch. 933, § 4, 70 Stat. 988.)

**§ 1722. Transfer of commodities on a grant basis to assist programs; protection of sales possibilities.**

The President may authorize the transfer on a grant basis of surplus agricultural commodities from Commodity Credit Corporation stocks to assist programs undertaken with friendly governments or through voluntary relief agencies: *Provided*, That the President shall take reasonable precaution that such transfers will not displace or interfere with sales which might otherwise be made. (July 10, 1954, ch. 469, title II, § 202, 68 Stat. 458.)

**§ 1723. Limitation on transfers of commodities; use of agencies, organizations, and facilities in making transfers; payment of ocean freight charges.**

Not more than \$500,000,000 (including the Corporation's investment in the commodities) shall be expended for all such transfers and for other costs authorized by this subchapter. The President may make such transfers through such agencies including intergovernmental organizations, in such manner, and upon such terms and conditions as he deems appropriate; he shall make use of the facilities of voluntary relief agencies to the extent practicable. Such transfers may include delivery f. o. b. vessels in United States ports and, upon a determination by the President that it is necessary to accomplish the purposes of this subchapter or of section 1431 of this title, ocean freight charges from United States ports to designated ports of entry abroad may be paid from funds available to carry out this subchapter on commodities transferred pursuant hereto or donated under said section 1431 of this title. Funds required for ocean freight costs authorized under this subchapter may be transferred by the Commodity Credit Corporation to such other Federal agency as may be designated by the President. (July 10, 1954, ch. 469, title II, § 203, 68 Stat. 458, amended May 28, 1956, ch. 327, title II, § 208 (c), 70 Stat. 201.)

**§ 1724. Termination date for assistance under this subchapter.**

No programs of assistance shall be undertaken under the authority of this subchapter after June 30, 1957. (July 10, 1954, ch. 469, title II, § 204, 68 Stat. 458.)

## **Commodity Set-Aside**

(7 U.S.C. 1741-1747)

**§ 1741. Maximum and minimum quantities for set-aside; definition.**

The Commodity Credit Corporation shall, as rapidly as the Secretary of Agriculture shall determine to be practicable, set aside within its inventories not more than the following maximum quantities and not less than the following minimum quantities of agricultural commodities or products thereof heretofore or here-

after acquired by it from 1954 and prior years' crops and production in connection with its price support operations:

<i>Commodity</i>	<i>Maximum quantity</i>	<i>Minimum quantity</i>
Wheat (bushels) .....	500,000,000	400,000,000
Upland cotton (bales).....	4,000,000	3,000,000
Cottonseed oil (pounds).....	500,000,000	0
Butter (pounds) .....	200,000,000	0
Nonfat dry milk solids (pounds).....	300,000,000	0
Cheese (pounds) .....	150,000,000	0

Such quantities shall be known as the "commodity set-aside". (Aug. 28, 1954, ch. 1041, title I, § 101, 68 Stat. 897.)

**§ 1742. Determination of commodity value for set-aside.**

Quantities of commodities shall not be included in the commodity set-aside which have an aggregate value in excess of \$2,500,000,000. The value of the commodities placed in the commodity set-aside for the purpose of this section, shall be the Corporation's investment in such commodities as of the date they are included in the commodity set-aside, as determined by the Secretary. (Aug. 28, 1954, ch. 1041, title I, § 102, 68 Stat. 897.)

**§ 1743. Reduction of set-aside.**

(a) Such commodity set-aside shall be reduced by disposals made in accordance with the directions of the President as follows:

(1) Donation, sale, or other disposition for disaster or other relief purposes outside the United States pursuant to and subject to the limitations of subchapter III of chapter 41 of this title;

(2) Sale or barter (including barter for strategic materials) to develop new or expanded markets for American agricultural commodities, including but not limited to disposition pursuant to and subject to the limitations of subchapter II of chapter 41 of this title;

(3) Donation to school-lunch programs;

(4) Transfer to the national stockpile established pursuant to sections 98-98h of title 50, without reimbursement from funds appropriated for the purposes of said sections;

(5) Donation, sale, or other disposition for research, experimental, or educational purposes;

(6) Donation, sale, or other disposition for disaster relief purposes in the United States or to meet any national emergency declared by the President; and

(7) Sale for unrestricted use to meet a need for increased supplies at not less than 105 per centum of the parity price in the case of agricultural commodities and a price reflecting 105 per centum of the parity price of the agricultural commodity in the case of products of agricultural commodities.

The President shall prescribe such terms and conditions for the disposal of commodities in the commodity set-aside as he determines will provide adequate safeguards against interference with normal marketings of the supplies of such commodities outside the commodity set-aside. Strategic materials acquired by the Commodity Credit Corporation under paragraph (2) of this subsection shall be transferred to the national stockpile established pursuant to sections 98-98h of title 50, and the Commodity Credit Corpora-

tion shall be reimbursed for the value of the commodities bartered for such strategic materials from funds appropriated pursuant to section 98g of title 50. For the purpose of such reimbursement, the value of any commodity so bartered shall be the lower of the domestic market price or the Commodity Credit Corporation's investment therein as of the date of such barter, as determined by the Secretary of Agriculture.

(b) The quantity of any commodity in the commodity set-aside shall be reduced to the extent that the Commodity Credit Corporation inventory of such commodity is reduced, by natural or other cause beyond the control of the Corporation, below the quantity then charged to the commodity set-aside. (Aug. 28, 1954, ch. 1041, title I, § 103, 68 Stat. 898.)

#### **§ 1744. Sale of commodities in set-aside; exemption from pricing limitations.**

(a) The Corporation shall have authority to sell, without regard to section 1743 (a) (7) of this title, any commodity covered by the commodity set-aside for the purpose of rotating stocks or consolidating inventories, any such sale to be offset by purchase of the same commodity in a substantially equivalent quantity or of a substantially equivalent value.

(b) Dispositions pursuant to this chapter shall not be subject to the pricing limitations of section 1427 of this title. (Aug. 28, 1954, ch. 1041, title I, § 104, 68 Stat. 898.)

#### **§ 1745. Computation of carryover.**

The quantity of any commodity in the commodity set-aside or transferred from the set-aside to the national stockpile established pursuant to sections 98-98h of title 50 shall be excluded from the computation of "carryover" for the purpose of determining the price support level for such commodity under the Agricultural Act of 1949, as amended, and related legislation, but shall be included in the computation of total supplies for purposes of acreage allotments and marketing quotas under the Agricultural Adjustment Act of 1938, as amended, and related legislation. Until such time as the commodity set-aside has been completed, such quantity of the commodity as the Secretary shall determine between the maximum and minimum quantities specified in section 1741 of this title shall be excluded from the computations of "carryover" for the purpose of determining the price support level, but shall be included in the computation of total supplies for purposes of acreage allotments and marketing quotas, for the 1955 crop of the commodity, notwithstanding that the quantity so excluded may not have been acquired by the Corporation and included in the commodity set-aside. (Aug. 28, 1954, ch. 1041, title I, § 105, 68 Stat. 898.)

#### **§ 1746. Records and accounts.**

The Commodity Credit Corporation shall keep such records and accounts as may be necessary to show, for each commodity set-aside, the initial and current composition, value (in accordance with section 1742 of this title), current investment, quantity disposed of, method of disposition, and amounts received on disposition. (Aug. 28, 1954, ch. 1041, title I, § 106, 68 Stat. 898.)

**§ 1747. Appropriations; determination of values; of transferred commodity.**

In order to make payment to the Commodity Credit Corporation for any commodities transferred to the national stockpile pursuant to section 1743 (a) (4) of this title, there are authorized to be appropriated amounts equal to the value of any commodities so transferred. The value of any commodity so transferred, for the purpose of this section, shall be the lower of the domestic market price or the Commodity Credit Corporation's investment therein as of the date of transfer to the stockpile, as determined by the Secretary of Agriculture. (Aug. 28, 1954, ch. 1041, title I, § 107, 68 Stat. 898.)

**PART D**

**MISCELLANEOUS**

**National Wool Act of 1954**

(7 U.S.C. 1781-1787)

**§ 1781. Declaration of policy.**

It is hereby recognized that wool is an essential and strategic commodity which is not produced in quantities and grades in the United States to meet the domestic needs and that the desired domestic production of wool is impaired by the depressing effects of wide fluctuations in the price of wool in the world markets. It is declared to be the policy of Congress, as a measure of national security and in promotion of the general economic welfare, to encourage the annual domestic production of approximately three hundred million pounds of shorn wool, grease basis, at prices fair to both producers and consumers in a manner which will have the least adverse effects upon foreign trade. ( Aug. 28, 1954, ch. 1041, title VII, § 702, 68 Stat. 910.)

**§ 1782. Price supports; time limitations.**

The Secretary of Agriculture shall, through the Commodity Credit Corporation, support the prices of wool and mohair, respectively, to the producers thereof by means of loans, purchases, payments, or other operations. Such price support shall be limited to wool and mohair marketed during the period beginning April 1, 1955, and ending March 31, 1959. The support price for shorn wool shall be at such incentive level as the Secretary, after consultation with producer representatives, and after taking into consideration prices paid and other cost conditions affecting sheep production, determines to be necessary in order to encourage an annual production consistent with the declared policy of this chapter: *Provided*, That the support price for shorn wool shall not

exceed 110 per centum of the parity price therefor. If the support price so determined does not exceed 90 per centum of the parity price for shorn wool, the support price for shorn wool shall be at such level, not in excess of 90 per centum nor less than 60 per centum of the parity price therefor, as the Secretary determines necessary in order to encourage an annual production of approximately three hundred and sixty million pounds of shorn wool. The support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, as the Secretary determines will maintain normal marketing practices for pulled wool, and as the Secretary shall determine is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. The deviation of mohair support prices shall not be calculated so as to cause it to rise or fall more than 15 per centum above or below the comparable percentage of parity at which shorn wool is supported. Notwithstanding the foregoing, no price support shall be made available, other than through payments, at a level in excess of 90 per centum of the parity price for the commodity. The Secretary shall, to the extent practicable, announce the support price levels for wool and mohair sufficiently in advance of each marketing year as will permit producers to plan their production for such marketing year. (Aug. 28, 1954, ch. 1041, title VII, § 703, 68 Stat. 910.)

### § 1783. Payments utilized as price supports.

If payments are utilized as a means of price support, the payments shall be such as the Secretary of Agriculture determines to be sufficient, when added to the national average price received by producers, to give producers a national average return for the commodity equal to the support price level therefor: *Provided*, That the total of all such payments made under this Act shall not at any time exceed an amount equal to 70 per centum of the accumulated totals, as of the same date, of the gross receipts from specific duties (whether or not such specific duties are parts of compound rates) collected on and after January 1, 1953, on all articles subject to duty under paragraphs 1101–1122 of section 1001 of title 19. The payments shall be made upon wool and mohair marketed by the producers thereof, but any wool or mohair produced prior to January 1, 1955, shall not be the subject of payments. The payments shall be at such rates for the marketing year or periods thereof as the Secretary determines will give producers the support price level as herein provided. Payments to any producer need not be made if the Secretary determines that the amount of the payment to the producer or all producers is too small to justify the cost of making such payments. The Secretary may make the payment to producers through the marketing agency to or through whom the producer marketed his wool or mohair: *Provided*, That such marketing agency agrees to receive and promptly distribute the payments on behalf of such producers. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary may determine to be fair and reasonable in all the circumstances and provided by

regulation. (Aug. 28, 1954, ch. 1041, title VII, § 704, 68 Stat. 911.)

**§ 1784. Reimbursement to Commodity Credit Corporation.**

For the purpose of reimbursing the Commodity Credit Corporation for any expenditures made by it in connection with payments to producers under this chapter, there is appropriated for each fiscal year beginning with the fiscal year ending June 30, 1956, an amount equal to the total of expenditures made by the Corporation during the preceding fiscal year and to any amounts expended in prior fiscal years not previously reimbursed: *Provided, however,* That such amounts appropriated for any fiscal year shall not exceed 70 per centum of the gross receipts from specific duties (whether or not such specific duties are parts of compound rates) collected during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year on all articles subject to duty under paragraphs 1101–1122 of section 1001 of title 19. For the purposes of the appraisal under sections 713a–1 to 713a–5 of title 15, the Commodity Credit Corporation shall establish on its books an account receivable in an amount equal to any amount expended by Commodity Credit Corporation in connection with payments pursuant to this chapter which has not been reimbursed from appropriations made hereunder. (Aug. 28, 1954, ch. 1041, title VII, § 705, 68 Stat. 911.)

**§ 1785. Determination of price support operations by Secretary.**

Except as otherwise provided in this chapter the amounts, terms, and conditions of the price support operations and the extent to which such operations are carried out shall be determined or approved by the Secretary of Agriculture. The Secretary may, in determining support prices and rates of payment, make adjustments in such prices or rates for differences in grade, quality, type, location, and other factors to the extent he deems practicable and desirable. Determinations by the Secretary under this chapter shall be final and conclusive. The facts constituting the basis for any operation, payment, or amount thereof when officially determined in conformity with applicable regulations prescribed by the Secretary shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. (Aug. 28, 1954, ch. 1041, title VII, § 706, 68 Stat. 912.)

**§ 1786. Definitions.**

The term “marketing year” as used in this chapter means the 12-month period beginning April 1 of each calendar year, or for either wool or mohair, such other period, or periods for prescribed areas, as the Secretary may determine to be desirable to effectuate the purpose of this chapter. (Aug. 28, 1954, ch. 1041, title VII, § 707, 68 Stat. 912.)

**§ 1787. Agreements, marketing cooperatives, trade associations, etc., approval; referendum.**

The Secretary of Agriculture is authorized to enter into agreements with, or to approve agreements entered into between, marketing cooperatives, trade associations, or others engaged or whose members are engaged in the handling of wool, mohair, sheep, or

goats or the products thereof for the purpose of developing and conducting on a national, State, or regional basis advertising and sales promotion programs for wool, mohair, sheep, or goats or the products thereof. Provision may be made in such agreement to obtain the funds necessary to defray the expenses incurred thereunder through pro rata deductions from the payments made under section 1784 of this title to producers within the production area he determines will be benefited by the agreement and for the assignment and transfer of the amounts so deducted to the person or agency designated in the agreement to receive such amounts for expenditure in accordance with the terms and conditions for the agreement. No agreement containing such a provision for defraying expenses through deductions shall become effective until the Secretary determines that at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged, within the production area he determines will be benefited by the agreement, in the production for market of the commodity who, during such representative period have produced at least two-thirds of the volume of such commodity produced within the area which will be benefited by such agreement, approve or favor such agreement. Approval or disapproval by cooperative associations shall be considered as approval or disapproval by the producers who are members of, stockholders in, or under contract with such cooperative association of producers. The Secretary may conduct a referendum among producers to ascertain their approval or favor. The requirements of approval or favor shall be held to be complied with if two-thirds of the total number of producers, or two-thirds of the total volume of production, as the case may be represented in such referendum, indicate their approval or favor. (Aug. 28, 1954, ch. 1041, title VII, § 708, 68 Stat. 912.)

### Capper-Volstead Act

(7 U.S.C. 291, 292)

#### § 291. Authorization of associations; powers generally.

Persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers may act together in associations, corporate or otherwise with or without capital stock, in collectively processing, preparing for market, handling, and marketing in interstate and foreign commerce, such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes: *Provided, however,* That such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or,

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in the products of

nonmembers to an amount greater in value than such as are handled by it for members. (Feb. 18, 1922, ch. 57, § 1, 42 Stat. 388.)

**§ 292. Monopolizing or restraining trade and unduly enhancing prices prohibited; remedy and procedure.**

If the Secretary of Agriculture shall have reason to believe that any such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached, or contained therein, a notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade. An association so complained of may at the time and place so fixed, show cause why such order should not be entered. The evidence given on such a hearing shall be taken under such rules and regulations as the Secretary of Agriculture may prescribe, reduced to writing, and made a part of the record therein. If upon such hearing the Secretary of Agriculture shall be of the opinion that such association monopolizes or restrains trade in interstate or foreign commerce to such an extent that the price of any agricultural product is unduly enhanced thereby, he shall issue and cause to be served upon the association an order reciting the facts found by him, directing such association to cease and desist from monopolization or restraint of trade. On the request of such association or if such association fails or neglects for thirty days to obey such order, the Secretary of Agriculture shall file in the district court in the judicial district in which such association has its principal place of business a certified copy of the order and of all the records in the proceeding, together with a petition asking that the order be enforced, and shall give notice to the Attorney General and to said association of such filing. Such district court shall thereupon have jurisdiction to enter a decree affirming, modifying, or setting aside said order, or enter such other decree as the court may deem equitable, and may make rules as to pleadings and proceedings to be had in considering such order. The place of trial may, for cause or by consent of parties, be changed as in other causes.

The facts found by the Secretary of Agriculture and recited or set forth in said order shall be prima facie evidence of such facts, but either party may adduce additional evidence. The Department of Justice shall have charge of the enforcement of such order. After the order is so filed in such district court and while pending for review therein the court may issue a temporary writ of injunction forbidding such association from violating such order or any part thereof. The court may, upon conclusion of its hearing, enforce its decree by a permanent injunction or other appropriate remedy. Service of such complaint and of all notices may be made upon such association by service upon any officer or agent thereof engaged in carrying on its business, or on any attorney authorized to appear in such proceeding for such association, and such service shall be binding upon such association,

the officers, and members thereof. (Feb. 18, 1922, ch. 57, § 2, 42 Stat. 388.)

### **Organic Act of 1944**

(7 U.S.C. 396)

#### **Inspection of livestock, hides, animal products, etc.; place; charges; disposal of funds.**

The Secretary of Agriculture upon application of any exporter, importer, packer, or owner of, or the agent thereof, or dealer in, livestock, hides, skins, meat, or other animal products may, in his discretion, cause to be made inspections and examinations at places other than the headquarters of inspectors for the convenience of said applicants, who may be charged for the expenses of travel and subsistence incurred for such inspections and examinations, the funds derived from such charges to be deposited in the Treasury of the United States to the credit of the appropriation from which the expenses are paid. (Sept. 21, 1944, ch. 412, title I, § 101 (c), 58 Stat. 734.)

#### **Oaths, Witnesses, and Records**

(7 U.S.C. 420)

#### **§ 420. Power to administer oaths, examine witnesses, or require production of books, etc.**

In the performance of the duties required of the Bureau of Agricultural Economics in the administration or enforcement of provisions of Acts (United States Cotton Futures Act, 39 Statutes at Large, page 476; United States Grain Standards Act, 39 Statutes at Large, page 482; United States Warehouse Act, 39 Statutes at Large, page 486; Standard Container Act, 39 Statutes at Large, page 673; and the Acts making annual appropriations for the Department of Agriculture) relating to the Department of Agriculture, the Secretary of Agriculture, or any representative specifically authorized in writing by him for the purpose, shall have power to administer oaths, examine witnesses and call for the production of books and papers. (July 24, 1919, ch. 26, 41 Stat. 267; May 11, 1922, ch. 185, 42 Stat. 532.)

#### **Agricultural Marketing Act of 1929**

(12 U.S.C. 1141j(d))

#### **(d) GOVERNMENTAL PUBLICATIONS; PREDICTIONS AS TO COTTON PRICES PROHIBITED.**

The inclusion in any governmental report, bulletin, or other such publication hereafter issued or published of any prediction with respect to cotton prices is prohibited. Any officer or employee of the United States who authorizes or is responsible for the inclusion in any such report, bulletin, or other publication of any such prediction, or who knowingly causes the issuance or publication of any such report, bulletin, or other publication containing any such prediction, shall, upon conviction thereof, be fined not less than \$500 or more than \$5,000, or imprisoned for not more than five years, or both: *Provided*, That this subdivision shall not apply to the Governor of the Farm Credit Administration

when engaged in the performance of his duties herein provided. (June 15, 1929, ch. 24, § 15, 46 Stat. 18; March 4, 1931, ch. 520, § 3, 46 Stat. 1550; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title V, § 55, 48 Stat. 266; June 3, 1935, ch. 164, § 12, 49 Stat. 317.)

### **Excerpts from Appropriation Act of 1957**

(Act of June 4, 1956, 70 Stat. 229, 234, 241)

#### **(a) Limitations on certain apples and cotton statistics.**

Marketing research and agricultural estimates: For \* \* \* \* : *Provided further*, That no part of the funds herein appropriated shall be available for any expense incident to ascertaining, collating, or publishing a report stating the intention of farmers as to the acreage to be planted in cotton, or for estimates of apple production for other than the commercial crop.

#### **(b) Contracting authority for research and service.**

Not less than \$1,500,000 of the appropriations of the Department for research and service work authorized by the Act of August 14, 1946 (7 U.S.C. 427, 1621-1629), and the Act of July 28, 1954 (Public Law 545), shall be available for contracting in accordance with said Acts.

#### **(c) Advisory committee expenses.**

Appropriations of the Department available for research and service work authorized by the Act of August 14, 1946 (7 U.S.C. 427, 1621-1629) shall be available for expenses of any advisory committee established as provided in title III of said Act to assist in effectuating the research and service work of the Department.

### **Organic Act of 1956**

(70 Stat. 1034)

#### **Travel and per diem expenses of temporary or seasonal employees.**

Under such regulations as may be prescribed by the Secretary of Agriculture, funds available to the Department of Agriculture may be used for the payment of transportation expenses and per diem in lieu of subsistence expenses, in accordance with the Travel Expense Act of 1949, for travel between places of recruitment and duty, and while at places of duty, of persons appointed for temporary or seasonal services in inspection, classing or grading agricultural commodities. (Aug. 3, 1956, ch. 950, § 12, 70 Stat. 1034.)

### **Federal Reports Act of 1942**

(5 U.S.C. 139-139f)

#### **§ 139. Declaration of Congressional policy.**

It is declared to be the policy of the Congress that information which may be needed by the various Federal agencies should be obtained with a minimum burden upon business enterprises (especially small business enterprises) and other persons required to furnish such information, and at a minimum cost to the Government, that all unnecessary duplication of efforts in obtaining such information through the use of reports, questionnaires, and other

such methods should be eliminated as rapidly as practicable; and that information collected and tabulated by any Federal agency should insofar as is expedient be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public. (Dec. 24, 1942, ch. 811, § 2, 56 Stat. 1078.)

### **§ 139a. Collection of information.**

#### **(a) DUTIES OF THE DIRECTOR OF THE BUREAU OF THE BUDGET.**

With a view to carrying out the policy of sections 139-139f of this title, the Director of the Bureau of the Budget (hereinafter referred to as the "Director") is directed from time to time (1) to investigate the needs of the various Federal agencies for information from business enterprises, from other persons, and from other Federal agencies; (2) to investigate the methods used by such agencies in obtaining such information; and (3) to coordinate as rapidly as possible the information-collecting services of all such agencies with a view to reducing the cost to the government of obtaining such information and minimizing the burden upon business enterprises and other persons, and utilizing, as far as practicable, the continuing organization, files of information and existing facilities of the established Federal departments and independent agencies.

#### **(b) DESIGNATION OF CENTRAL COLLECTION AGENCY.**

If, after any such investigation, the Director is of the opinion that the needs of two or more Federal agencies for information from business enterprises and other persons will be adequately served by a single collecting agency, he shall fix a time and place for a hearing at which the agencies concerned and any other interested persons shall have an opportunity to present their views. After such hearing, the Director may issue an order designating a collecting agency to obtain such information for any two or more of the agencies concerned, and prescribing (with reference to the collection of such information) the duties and functions of the collecting agency so designated and the Federal agencies for which it is to act as agent. Any such order may be modified from time to time by the Director as circumstances may require, but no such modification shall be made except after investigation and hearing as hereinbefore provided.

#### **(c) INDEPENDENT COLLECTION BY AN AGENCY IS PROHIBITED.**

While any such order or modified order is in effect, no Federal agency covered by such order shall obtain for itself any information which it is the duty of the collecting agency designated by such order to obtain.

#### **(d) DETERMINATION FOR NECESSITY OF INFORMATION; HEARING.**

Upon the request of any party having a substantial interest, or upon his own motion, the Director is authorized within his discretion to make a determination as to whether or not the collection of any information by any Federal agency is necessary for the proper performance of the functions of such agency or for any other proper purpose. Before making any such determination, the Director may within his discretion, give to such agency and to other interested persons an adequate opportunity to be heard or to submit statements in writing. To the extent, if any, that the

Director determines the collection of such information by such agency is unnecessary, either because it is not needed for the proper performance of the functions of such agency or because it can be obtained from another Federal agency or for any other reason, such agency shall not thereafter engage in the collection of such information.

(e) COOPERATION OF AGENCIES IN MAKING INFORMATION AVAILABLE.

For the purposes of sections 139-139f of this title, the Director is authorized to require any Federal agency to make available to any other Federal agency any information which it has obtained from any person after December 24, 1942, and all such agencies are directed to cooperate to the fullest practicable extent at all times in making such information available to other such agencies: *Provided*, That the provisions of sections 139-139f of this title shall not apply to the obtaining or releasing of information by the Bureau of Internal Revenue, the Comptroller of the Currency, the Bureau of the Public Debt, the Bureau of Accounts and the Division of Foreign Funds Control of the Treasury Department: *Provided further*, That the provisions of sections 139-139f of this title shall not apply to the obtaining by any Federal bank supervisory agency of reports and information from banks as provided or authorized by law and in the proper performance of such agency's functions in its supervisory capacity. (Dec. 24, 1942, ch. 811, § 3, 56 Stat. 1078.)

**§ 139b. Unlawful disclosure of information; penalties; release of information to other agencies.**

(a) In the event that any information obtained in confidence by a Federal agency is released by that agency to another Federal agency, all the provisions of law (including penalties) which relate to the unlawful disclosure of any such information shall apply to the officers and employees of the agency to which such information is released to the same extent and in the same manner as such provisions apply to the officers and employees of the agency which originally obtained such information; and the officers and employees of the agency to which the information is released shall in addition be subject to the same provisions of law (including penalties) relating to the unlawful disclosure of such information as if the information has been collected directly by such agency.

(b) Information obtained by a Federal agency from any person or persons may, pursuant to sections 139-139f of this title, be released to any other Federal agency only if (1) the information shall be released in the form of statistical totals or summaries or (2) the information as supplied by persons to a Federal agency shall not, at the time of collection, have been declared by that agency or by any superior authority to be confidential; or (3) the persons supplying the information shall consent to the release of it to a second agency by the agency to which the information was originally supplied; or (4) the Federal agency to which another Federal agency shall release the information has authority to collect the information itself and such authority is supported by legal provision for criminal penalties against persons failing to

supply such information. (Dec. 24, 1942, ch. 811, § 4, 56 Stat. 1079.)

**§ 139c. Plans or forms for collecting information; submission to Director; approval.**

No Federal agency shall conduct or sponsor the collection of information, upon identical items, from 10 to more persons (other than Federal employees considered as such) unless, in advance of adoption or revision of any plans or forms to be used in such collection.

(a) The agency shall have submitted to the Director such plans or forms, together with copies of such pertinent regulations and other related materials as the Director shall specify; and

(b) The Director shall have stated that he does not disapprove the proposed collection of information. (Dec. 24, 1942, ch. 811, § 5, 56 Stat. 1079.)

**§ 139d. Rules and regulations.**

The Director is authorized to make such rules and regulations as may be necessary to carry out the provisions of sections 139-139f of this title. (Dec. 24, 1942, ch. 811, § 6, 56 Stat. 1079.)

**§ 139e. Definitions.**

As used in sections 139-139f of this title—

(a) The term "Federal agency" means any executive department, commission, independent establishment, corporation owned or controlled by the United States, board, bureau, division, service, office, authority, or administration in the executive branch of the Government; but such terms shall not include the General Accounting Office nor the governments of the District of Columbia and of the Territories and possessions of the United States, and the various subdivisions of such governments.

(b) The term "person" means any individual, partnership, association, corporation, business trust, or legal representative, any organized group of persons, any State or Territorial government or branch thereof, or any political subdivision of any State or Territory or any branch of any such political subdivision.

(c) The term "information" means facts obtained or solicited by the use of written report forms, application forms, schedules, questionnaires, or other similar methods calling either (1) for answers to identical questions from ten or more persons other than agencies, instrumentalities, or employees of the United States or (2) for answers to questions from agencies, instrumentalities, or employees of the United States which are to be used for statistical compilations of general public interest. (Dec. 24, 1942, ch. 811, § 7, 56 Stat. 1079.)

**§ 139f. Penalty for failure to furnish information.**

Any person failing to furnish information required by any such agency shall be subject to such penalties as are specifically prescribed by law, and no other penalty shall be imposed either by way of fine or imprisonment or by the withdrawal or denial of any right, privilege, priority, allotment, or immunity, except when the right, privilege, priority, allotment, or immunity, is legally con-

ditioned on facts which would be revealed by the information requested. (Dec. 24, 1942, ch. 811, § 8, 56 Stat. 1080.)

## **Reorganization Plan No. 2 of 1953**

(5 U.S.C. 511 et seq.)

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 25, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [sections 133z to 133z-15 of this title].

### **Department of Agriculture**

#### **1. Transfer of functions to the Secretary.**

(a) Subject to the exceptions specified in subsection (b) of this section, there are hereby transferred to the Secretary of Agriculture all functions not now vested in him of all other officers, and of all agencies and employees, of the Department of Agriculture.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act [section 1001 et seq. of this title] in hearing examiners employed by the Department of Agriculture nor to the functions of (1) corporations of the Department of Agriculture, (2) the boards of directors and officers of such corporations, (3) the Advisory Board of the Commodity Credit Corporation, or (4) the Farm Credit Administration or any agency, officer, or entity of, under, or subject to the supervision of the said administration.

#### **2. Assistant Secretaries of Agriculture.**

Two additional Assistant Secretaries of Agriculture shall be appointed by the President, by and with the advice and consent of the Senate. Each such Assistant Secretary shall perform such functions as the Secretary of Agriculture shall, from time to time, prescribe and each shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

#### **3. Administrative Assistant Secretary.**

An administrative Assistant Secretary of Agriculture shall be appointed with the approval of the President, by the Secretary of Agriculture under the classified civil service, and shall perform such functions as the Secretary of Agriculture shall, from time to time, prescribe. The provisions of the item numbered (1) of the third proviso under the heading "General Provisions" appearing in chapter XI of the Third Supplemental Appropriation Act, 1952, approved June 5, 1952 (66 Stat. 121) [section 517a of this title], are hereby made applicable to the position of Administrative Assistant Secretary of Agriculture.

#### **4. Delegation of functions.**

(a) The Secretary of Agriculture may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Agriculture of any function of the Secretary,

including any function transferred to the Secretary by the provisions of this reorganization plan.

(b) To the extent that the carrying out of subsection (a) of this section involves the assignment of major functions or major groups of functions to major constituent organizational units of the Department of Agriculture, now or hereafter existing, or to the heads or other officers thereof, and to the extent deemed practicable by the Secretary, he shall give appropriate advance public notice of delegations of functions proposed to be made by him and shall afford appropriate opportunity for interested persons and groups to place before the Department of Agriculture their views with respect to such proposed delegations.

(c) In carrying out subsection (a) of this section the Secretary shall seek to simplify and make efficient the operation of the Department of Agriculture, to place the administration of farm programs close to the State and local levels, and to adapt the administration of the programs of the Department to regional, State, and local conditions.

## **5. Incidental transfers.**

The Secretary of Agriculture may from time to time effect such transfers within the Department of Agriculture of any of the records, property, and personnel affected by this reorganization plan and such transfers of unexpended balances (available or to be made available for use in connection with any affected function or agency) of appropriations, allocations, and other funds of such Department, as he deems necessary to carry out the provisions of this reorganization plan; but such unexpended balances so transferred shall be used only for the purposes for which such appropriation was originally made. (18 F. R. 3219, 67 Stat. 633.)

## **Defense Production Act of 1950**

(50 U.S.C. 2061-2166)

### **§ 2061. Short title.**

This Act [sections 2061-2166 of the Appendix], divided into titles, may be cited as "the Defense Production Act of 1950." (Sept. 8, 1950, ch. 932, § 1, 64 Stat. 798.)

### **§ 2062. Declaration of policy.**

In view of the present international situation and in order to provide for the national defense and national security, our mobilization effort continues to require some diversion of certain materials and facilities from civilian use to military and related purposes. It also requires the development of preparedness programs and the expansion of productive capacity and supply beyond the levels needed to meet the civilian demand, in order to reduce the time required for full mobilization in the event of an attack on the United States.

In order to insure productive capacity in the event of such an attack on the United States, it is the policy of the Congress to encourage the geographical dispersal of the industrial facilities of the United States in the interest of the national defense, and to discourage the concentration of such productive facilities within limited geographical areas which are vulnerable to attack by an

enemy of the United States. In the construction of any Government-owned industrial facilities, in the rendition of any Government financial assistance for the construction, expansion, or improvement of any industrial facilities, and in the procurement of goods and services, under this or any other Act, each department and agency of the Executive Branch shall apply, under the coordination of the Office of Defense Mobilization, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographical dispersal of such facilities in the interest of national defense. Nothing contained in this paragraph shall preclude the use of existing industrial facilities. (As amended June 30, 1953, ch. 171, § 2, 67 Stat. 129; Aug. 9, 1955, ch. 655, § 2, 69 Stat. 580; June 29, 1956, ch. 474, § 4, 70 Stat. 408.)

### **§ 2071. Priority in contracts and orders.**

#### **(a) ALLOCATION OF MATERIALS AND FACILITIES.**

The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

#### **(b) CRITICAL AND STRATEGIC MATERIALS.**

The powers granted in this section shall not be used to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship. (As amended June 30, 1953, ch. 171, § 3, 67 Stat. 129.)

### **§ 2091. Loan guarantees.**

#### **(a) PURPOSE OF LOANS; GUARANTEEING AGENCIES.**

In order to expedite production and deliveries or services under Government contracts, the President may authorize, subject to such regulations as he may prescribe, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce, and such other agencies of the United States engaged in procurement for the national defense as he may designate (hereinafter referred to as "guaranteeing agencies"), without regard to provisions of law relating to the making, performance, amendment, or modification of contracts, to guarantee in whole or in part any public or private financing institution (including any Federal Reserve bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made by

such financing institution for the purpose of financing any contractor, subcontractor, or other person in connection with the performance of any contract or other operation deemed by the guaranteeing agency to be necessary to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense, or for the purpose of financing any contractor, subcontractor, or other person in connection with or in contemplation of the termination, in the interest of the United States, of any contract made for the national defense; but no small business concern (as defined in section 714 (a) (1) of this Act) shall be held ineligible for the issuance of such a guaranty by reason of alternative sources of supply.

\* \* \* \* \*

(As amended June 30, 1953, ch. 171, § 4, 67 Stat. 129.)

**§ 2093. Purchase of raw materials and installation of equipment.**

(a) PURCHASES FOR USE OR RESALE; DEVELOPMENT OF STRATEGIC MINERALS AND METALS; AGRICULTURAL COMMODITIES; TERMINATION DATE.

To assist in carrying out the objectives of this Act [sections 2061–2166 of this Appendix], the President may make provision (1) for purchases of or commitments to purchase metals, minerals, and other materials, for Government use or resale; and (2) for the encouragement of exploration, development, and mining of critical and strategic minerals and metals: *Provided, however,* That purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial uses or stockpiling, and no commodity purchased under this subsection shall be sold at less than the established ceiling price for such commodity (except that minerals and metals shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower), or, if no ceiling price has been established, the higher of the following: (i) the current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of Public Law 439, Eighty-first Congress [section 1427 of Title 7]: *Provided further, however,* That no purchase or commitment to purchase any imported agricultural commodity shall be made calling for delivery more than one year after the expiration of this Act [sections 2061–2166 of this Appendix].

(b) TERMS AND CONDITIONS OF PURCHASE.

Subject to the limitations in subsection (a) of this section, purchases and commitments to purchase and sales under such subsection may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods, but not extending beyond June 30, 1965, as the President deems necessary, except that purchases or commitments to purchase involving higher than established ceiling prices (or if there be no established ceiling prices, currently prevailing market prices) or anticipated loss on

resale shall not be made unless it is determined that supply of the materials could not be effectively increased at lower prices or on terms more favorable to the Government or that such purchases are necessary to assure the availability to the United States of overseas supplies.

**(c) SUBSIDY PAYMENTS ON DOMESTICALLY PRODUCED MATERIALS; EXCLUSION OF AGRICULTURAL PRODUCTS.**

If the President finds—

(1) that under generally fair and equitable ceiling prices for any raw or nonprocessed material, there will result a decrease in supplies from high-costs sources of such material, and that the continuation of such supplies is necessary to carry out the objectives of the act [sections 2061–2166 of this appendix]; or

(2) that an increase in cost of transportation is temporary in character and threatens to impair maximum production or supply in any area at stable prices of any materials;

he may make provision for subsidy payments on any such domestically produced material other than an agricultural commodity in such amounts and in such manner (including purchases of such material and its resale at a loss without regard to the limitations of existing law), and on such terms and conditions, as he determines to be necessary to insure that supplies from such high-cost sources are continued, or that maximum production or supply in such area at stable prices of such materials is maintained, as the case may be.

**(d) TRANSPORTATION, STORAGE, AND PROCESSING.**

The procurement power granted to the President by this section shall include the power to transport and store and have processed and refined, any materials procured under this section.

**(e) INSTALLATION OF EQUIPMENT IN INDUSTRIAL FACILITIES.**

When in his judgment it will aid the national defense, the President is authorized to install additional equipment, facilities, processes or improvements to plants, factories, and other industrial facilities owned by the United States Government, and to install government-owned equipment in plants, factories, and other industrial facilities owned by private persons. (Sept. 8, 1950, ch. 932, title III, § 303, 64 Stat. 801; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 103 (a), 65 Stat. 133.)

**(f) TRANSFER OF EXCESS MATERIALS TO NATIONAL STOCKPILE.**

Notwithstanding any other provision of law to the contrary, metals, minerals, and materials acquired pursuant to the provisions of this section which, in the judgment of the President, are excess to the needs of programs under this Act [sections 2061, 2062, 2071–2073, 2091–2094, 2151–2163 and 2164–2166 of this Appendix], shall be transferred to the national stockpile established pursuant to the Act of June 7, 1939, as amended [sections 98–98h of Title 50], when the President deems such action to be in the public interest. Transfers made pursuant to this subsection shall be made without charge against or reimbursement from funds available under such Act of June 7, 1939 [sections 98–98h of Title 50], as amended, except that costs incident to such transfer other than acquisition costs shall be paid or reimbursed from such funds, and the acquisition costs of such metals, minerals, and

materials transferred shall be deemed to be net losses incurred by the transferring agency and the notes payable issued to the Secretary of the Treasury representing the amounts thereof shall be canceled. Upon the cancellation of any such notes the aggregate amount of borrowing which may be outstanding at any one time under section 304 (b) of this Act, as amended [section 2094 (b) of this Appendix], shall be reduced in an amount equal to the amount of any notes so canceled.

**(g) DEVELOPMENT OF SUBSTITUTES FOR STRATEGIC AND CRITICAL MATERIALS.**

When in his judgment it will aid the national defense, and upon a certification by the Secretary of Agriculture or the Secretary of the Interior that a particular strategic and critical material is likely to be in short supply in time of war or other national emergency, the President may make provision for the development of substitutes for such strategic and critical materials. (As amended June 30, 1953, ch. 171, §§ 5, 6, 67 Stat. 130; Aug. 9, 1955, ch. 655, § 3, 69 Stat. 580; June 29, 1956, ch. 474, § 2, 70 Stat. 408.)

**§ 2094. Utilization and creation of agencies; borrowing from Treasury; revolving fund; contingent liability of United States.**

(a) For the purposes of sections 302 and 303 [sections 2092 and 2093 of this Appendix], the President is authorized to utilize such existing departments, agencies, officials, or corporations of the Government as he may deem appropriate, or to create new agencies (other than corporations).

(b) Any agency created under this section, and any department, agency, official, or corporation utilized pursuant to this section is authorized, subject to the approval of the President, to borrow from the Treasury of the United States, such sums of money as may be necessary to carry out its functions under sections 302 and 303 [sections 2092 and 2093 of this Appendix]: *Provided*, That the amount borrowed under the provisions of this section by all such borrowers shall not exceed an aggregate of \$2,100,000,000 outstanding at any one time: *Provided further*, That when any contract, agreement, loan, or other transaction heretofore or hereafter entered into pursuant to section 302 or 303 [sections 2092 or 2093 of this Appendix] imposes contingent liability upon the United States, such liability shall be considered for the purposes of sections 3679 and 3732 of the Revised Statutes, as amended [section 665 of Title 31 and section 11 of Title 41], as an obligation only to the extent of the probable ultimate net cost to the United States under such transaction; and the President shall submit a report to the Congress not less often than once each quarter setting forth the gross amount of each such transaction entered into by any agency of the United States Government under this authority and the basis for determining the probable ultimate net cost to the United States thereunder. For the purpose of borrowing as authorized by this subsection, the borrower may issue to the Secretary of the Treasury its notes, debentures, bonds, or other obligations to be redeemable at its option before maturity in such manner as may be stipulated in such obligations. Such obligations shall bear interest at a rate determined by the Secretary of

the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the obligations. The Secretary of the Treasury is authorized and directed to purchase such obligations and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of obligations hereunder.

(c) Repealed. July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 103 (c), 65 Stat. 134.

(Sept. 8, 1950, ch. 932, title III, § 304, 64 Stat. 802; June 2, 1951, ch. 121, ch. XI, 65 Stat. 61; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § (b, c), 65 Stat. 134.)

### **§ 2151. Encouragement of small business; allocation of supplies to business.**

(a) It is the sense of the Congress that small-business enterprises be encouraged to make the greatest possible contribution toward achieving the objectives of this Act [sections 2061–2166 of this Appendix].

(b) In order to carry out this policy—

(i) the President shall provide small-business enterprises with full information concerning the provisions of this Act [sections 2061–2166 of this Appendix] relating to, or of benefit to, such enterprises and concerning the activities of the various departments and agencies under this Act [said sections];

(ii) such business advisory committees shall be appointed as shall be appropriate for purposes of consultation in the formulation of rules, regulations, or orders, or amendments thereto issued under authority of this Act [said sections], and in their formation there shall be fair representation for independent small, for medium, and for large business enterprises, for different geographical areas, for trade association members and nonmembers, and for different segments of the industry;

(iii) in administering this Act [said sections], such exemptions shall be provided for small-business enterprises as may be feasible without impeding the accomplishment of the objectives of this Act [said sections]; and

(iv) in administering this Act [said sections], special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

### **(c) ALLOCATION OF MATERIALS IN CIVILIAN MARKET.**

Whenever the President invokes the powers given him in this Act [sections 2061, 2062, 2071–2073, 2091–2094, 2151–2163 and 2164–2166 of this appendix] to allocate any material in the civilian market, he shall do so in such a manner as to make available, so far as practicable, for business and various segments thereof in the normal channel of distribution of such material, a fair share of the available civilian supply based, so far as practicable, on the share received by such business under normal conditions during a representative period preceding any future allocation of materials:

*Provided*, That the President shall, in the allocation of materials in the civilian market, give due consideration to the needs of new concerns and newly acquired operations, undue hardships of individual businesses, and the needs of smaller concerns in an industry.

(d) DISTRIBUTION OF DEFENSE CONTRACTS.

In order to further the objectives and purposes of this section, the Office of Defense Mobilization is directed to investigate the distribution of defense contracts with particular reference to the share of such contracts which has gone and is now going to small business, either directly or by subcontract; to review the policies, procedures, and administrative arrangements now being followed in order to increase participation by small business in the mobilization program; to explore all practical ways, whether by amendments to laws, policies, regulations, or administrative arrangements, or otherwise, to increase the share of defense procurement going to small business; to get from the departments and agencies engaged in procurement, and from other appropriate agencies including the Small Business Administration, their views and recommendations on ways to increase the share of procurement going to small business; and to make a report to the President and the Congress, not later than six months after August 9, 1955, which report shall contain the following: (i) a full statement of the steps taken by the Office of Defense Mobilization in making investigations required by this subsection; (ii) the findings of the Office of Defense Mobilization with respect to the share of procurement which has gone and is now going to small business; (iii) a full and complete statement of the actions taken by the Office of Defense Mobilization and other agencies to increase such small business share; (iv) a full and complete statement of the recommendations made by the procurement agencies and other agencies consulted by the Office of Defense Mobilization; and (v) specific recommendations by the Office of Defense Mobilization for further action to increase the share of procurement going to small business. (As amended June 30, 1953, ch. 171, § 7, 67 Stat. 130; Aug. 9, 1955, ch. 655, §§ 4, 5, 69 Stat. 580.)

**§ 2152. Definitions.**

As used in this Act [sections 2061–2166 of this Appendix]

(a) The word “person” includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing: *Provided*, That no punishment provided by this Act [sections 2061–2166 of this Appendix] shall apply to the United States, or to any such government, political subdivision, or government agency.

(b) The word “materials” shall include raw materials, articles, commodities, products, supplies, components, technical information, and processes.

(c) The word “facilities” shall not include farms, churches or other places of worship, or private dwelling houses.

(d) The term “national defense” means programs for military

and atomic energy production or construction, military assistance to any foreign nation, stockpiling, and directly related activity.

(e) The words "wages, salaries, and other compensation" shall include all forms of remuneration to employees by their employers for personal services, including, but limited to, vacation and holiday payments, night shift and other bonuses, incentive payments, year-end bonuses, employer contributions to or payments of insurance or welfare benefits, employer contributions to a pension fund or annuity, payments in kind, and premium overtime payments. (Sept. 8, 1950, ch. 932, title VII, § 702, 64 Stat. 815.)

**§ 2155. Investigations; records; reports; subpoenas; right to counsel.**

(a) The President shall be entitled, while this Act [sections 2061-2166 of this Appendix] is in effect and for a period of two years thereafter, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to any person as may be necessary or appropriate, in his discretion, to the enforcement or the administration of this Act [said sections] and the regulations or orders issued thereunder. The President shall issue regulations insuring that the authority of this subsection will be utilized only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. In case of contumacy by, or refusal to obey a subpoena served upon, any person referred to in this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the President, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirement under this section or from attending and testifying or from producing books, papers, documents, and other evidence in obedience to a subpoena before any grand jury or in any court or administrative proceeding based upon or growing out of any alleged violation of this Act [sections 2061-2166 of this Appendix] on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture; but no natural person shall be prosecuted or subjected to any penalty or forfeiture in any court, for or on account of any transaction, matter, or thing concerning which he is so compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such natural person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying: *Provided*, That the immunity granted herein from prosecution and punishment and from any penalty or forfeiture shall not be construed to vest in any individual any

right to priorities assistance to the allocation of materials, or to any other benefit which is within the power of the President to grant under any provision of this Act [said sections].

(c) The production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person usually keeps them, if, prior to the return date specified in the regulations, subpoena, or other document issued with respect thereto, such person furnishes the President with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with the President as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(d) Any person who willfully performs any act prohibited or willfully fails to perform any act required by the above provisions of this section, or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$1,000 or imprisoned for not more than one year or both.

(e) Information obtained under this section which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

All information obtained by the Office of Price Stabilization under this section 705, as amended, and not made public prior to April 30, 1953, shall be deemed confidential and shall not be published or disclosed, either to the public or to another Federal agency except the Congress or any duly authorized committee thereof, and except the Department of Justice for such use as it may deem necessary in the performance of its functions, unless the President determines that the withholding thereof is contrary to the interests of the national defense, and any person willfully violating this provision shall, upon conviction, be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(f) Any person subpoenaed under this section shall have the right to make a record of his testimony and to be represented by counsel. (Sept. 8, 1950, ch. 932, title VII, § 705, 64 Stat. 816; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, § 109 (d), 65 Stat. 139; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 117, 66 Stat. 306; ch. 171, § 9, 67 Stat. 131; June 30, 1953.)

### **§ 2158. Voluntary agreements and programs; exemptions from antitrust laws and Federal Trade Commission Act; survey and reports to Congress; termination.**

(a) The President is authorized to consult with representatives of industry, business, financing, agriculture, labor, and other interests, with a view to encouraging the making by such persons with the approval by the President of voluntary agreements and programs to further the objectives of this Act [sections 2061-2166 of this Appendix].

(b) No act or omission to act pursuant to this Act [sections

2061-2166 of this Appendix] which occurs while this Act [said sections] is in effect, if requested by the President pursuant to a voluntary agreement or program approved under subsection (a) of this section and found by the President to be in the public interest as contributing to the national defense shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act of the United States. *Provided, however,* That after August 9, 1955, the exemption from the prohibitions of the antitrust laws and the Federal Trade Commission Act [sections 41-58 of Title 15] of the United States shall apply only (1) to acts and omissions to act requested by the President or his duly authorized delegate pursuant to duly approved voluntary agreements or programs relating solely to the exchange between actual or prospective contractors of technical or other information, production techniques, and patents or patent rights, relating to equipment used primarily by or for the military which is being procured by the Department of Defense or any department thereof, and the exchange of materials, equipment, and personnel to be used in the production of such equipment; and (2) to acts and omissions to act requested by the President or his duly authorized delegate pursuant to voluntary agreements or programs which were duly approved under this section before August 9, 1955. The Attorney General shall review each of the voluntary agreements and programs covered by this section, and the activities being carried on thereunder, and, if he finds, after such review and after consultation with the Director of the Office of Defense Mobilization and other interested agencies, that the adverse effects of any such agreement or program on the competitive free enterprise system outweigh the benefits of the agreement or program to the national defense, he shall withdraw his approval in accordance with subsection (d) of this section. This review and determination shall be made within ninety days after August 9, 1955. A copy of each such request, intended to be within the coverage of this section, and any modification or withdrawal thereof, shall be furnished to the Attorney General and the Chairman of the Federal Trade Commission when made, and it shall be published in the Federal Register unless publication thereof would, in the opinion of the President, endanger the national security.

(c) The authority granted in subsection (b) of this section shall be delegated only (1) to officials who shall for the purpose of such delegation be required to be appointed by the President by and with the advice and consent of the Senate, unless otherwise required to be so appointed, and (2) upon the condition that such officials consult with the Attorney General and with the Chairman of the Federal Trade Commission not less than ten days before making any request or finding thereunder, and (3) upon the condition that such officials obtain the approval of the Attorney General to any request thereunder before making the request. For the purpose of carrying out the objectives of title I of this Act [sections 2071-2074 of this title], the authority granted in subsection (b) of this section shall not be delegated except to a single official of the Government.

(d) Upon withdrawal of any request or finding made hereunder, or upon withdrawal by the Attorney General of his approval of the voluntary agreement or program on which the request or finding

is based, the provisions of this section shall not apply to any subsequent act or omission to act by reason of such finding or request.

(e) The Attorney General is directed to make, or request the Federal Trade Commission to make for him, surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of this Act [sections 2061-2166 of this Appendix]. Such surveys, and the reports hereafter required, shall include studies of the voluntary agreements and programs authorized by this section. The Attorney General shall submit to the Congress and the President within ninety days after the approval of this Act [September 8, 1950], and at least once every three months, reports setting forth the results of such surveys and including such recommendations as he may deem desirable.

(f) After the date of enactment of the Defense Production Act Amendments of 1952 [June 30, 1952], no voluntary program or agreement for the control of credit shall be approved or carried out under this section. (Sept. 8, 1950, ch. 932, title VII, § 708, 64 Stat. 818; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, § 116 (c), 66 Stat. 305, as amended Aug. 9, 1955, ch. 655, § 6, 69 Stat. 581.)

**§ 2160. Employment of personnel; appointment policies; nucleus executive reserve; use of confidential information by employees; printing and distribution of reports.**

(a) Repealed. June 28, 1955, ch. 189, § 12 (c), (1), 69 Stat. 180.

(b) (1) The President is further authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act [sections 2061-2062, 2071-2073, 2091-2094, 2151-2163 and 2164-2166 of this Appendix] and subject to such regulations as he may issue, to employ persons of outstanding experience and ability without compensation;

(2) The President shall be guided in the exercise of the authority provided in this subsection by the following policies:

(i) So far as possible, operations under the Act [said section] shall be carried on by full-time, salaried employees of the Government, and appointments under this authority shall be to advisory or consultative positions only.

(ii) Appointments to positions other than advisory or consultative may be made under this authority only when the requirements of the position are such that the incumbent must personally possess outstanding experience and ability not obtainable on a full-time, salaried basis.

(iii) In the appointment of personnel and in assignment of their duties, the head of the department or agency involved shall take steps to avoid, to as great an extent as possible, any conflict between the governmental duties and the private interests of such personnel.

(3) Appointees under this subsection shall, when policy matters are involved, be limited to advising appropriate full-time salaried Government officials who are responsible for making policy decisions.

(4) Any person employed under this subsection is hereby exempted, with respect to such employment, from the operation of sections 281, 283, 284, 434, and 1914 of Title 18, and section 190 of the Revised Statutes [section 99 of Title 5], except that—

(i) exemption hereunder shall not extend to the negotiation or execution, by such appointee, of Government contracts with the private employer of such appointee or with any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(ii) exemption hereunder shall not extend to making any recommendation or taking any action with respect to individual applications to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any corporation, joint stock company, association, firm, partnership, or other entity in the pecuniary profits or contracts of which the appointee has any direct or indirect interest;

(iii) exemption hereunder shall not extend to the prosecution by the appointee, or participation by the appointee in any fashion in the prosecution, of any claims against the Government involving any matter concerning which the appointee had any responsibility during his employment under this subsection, during the period of such employment and the further period of two years after the termination of such employment; and

(iv) exemption hereunder shall not extend to the receipt or payment of salary in connection with the appointee's Government service hereunder from any source other than the private employer of the appointee at the time of his appointment hereunder.

(5) Appointments under this subsection shall be supported by written certification by the head of the employing department or agency—

(i) that the appointment is necessary and appropriate in order to carry out the provisions of the Act [sections 2061–2062, 2071–2073, 2091–2094, 2151–2163 and 2164–2166 of this appendix];

(ii) that the duties of the position to which the appointment is being made require outstanding experience and ability;

(iii) that the appointee has the outstanding experience and ability required by the position; and

(iv) that the department or agency head has been unable to obtain a person with the qualifications necessary for the position on a full-time, salaried basis.

(6) The heads of the departments or agencies making appointments under this subsection shall file with the Division of the Federal Register for publication in the Federal Register a statement including the name of the appointee, the employing department or agency, the title of his position, and the name of his private employer, and the appointee shall file with such Division for publication in the Federal Register a statement listing the names of any corporations of which he is an officer or director or within sixty days preceding his appointment has been an officer or director, or in which he owns, or within sixty days preceding his appointment has owned, any stocks, bonds, or other financial interests, and the names of any partnerships in which he is, or was within sixty days preceding his appointment, a partner, and the names of any other businesses in which he owns, or within

such sixty-day period has owned, any similar interest. At the end of each succeeding six-month period, the appointee shall file with such Division for publication in the Federal Register a statement showing any changes in such interests during such period.

(7) At least once every three months the Chairman of the United States Civil Service Commission shall survey appointments made under this subsection and shall report his findings to the President and the Joint Committee on Defense Production and make such recommendations as he may deem proper.

(8) Persons appointed under the authority of this subsection may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment.

(c) The President is authorized, to the extent he deems it necessary and appropriate in order to carry out the provisions of this Act [sections 2061-2166 of this Appendix] to employ experts and consultants or organizations thereof, as authorized by section 55a of Title 5. Individuals so employed may be compensated at rates not in excess of \$50 per diem and while away from their homes or regular places of business they may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence and other expenses while so employed. The President is authorized to provide by regulation for the exemption of such persons from the operations of sections 281, 283, 284, 434, and 1914 of Title 18 and section 99 of Title 5.

(d) The President may utilize the services of Federal, State, and local agencies and may utilize and establish such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed; and he is authorized to provide by regulation for the exemption of persons whose services are utilized under this subsection from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 99 of Title 5.

(e) The President is further authorized to provide for the establishment and training of a nucleus executive reserve for employment in executive positions in Government during periods of emergency. Members of this executive reserve who are not full-time Government employees may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence while away from their homes or regular places of business for the purpose of participating in the executive reserve training program. The President is authorized to provide by regulation for the exemption of such persons who are not full-time Government employees from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 190 of the Revised Statutes [section 99 of Title 5].

(f) Whoever, being an officer or employee of the United States or any department or agency thereof (including any Member of the Senate or House of Representatives), receives, by virtue of his office or employment, confidential information, and (1) uses such information in speculating directly or indirectly on any commodity exchange, or (2) discloses such information for the purpose of aiding any other person so to speculate, shall be fined not more than \$10,000 or imprisoned not more than one year, or both. As used in this section, the term "speculate" shall not include

a legitimate hedging transaction, or a purchase or sale which is accompanied by actual delivery of the commodity.

(g) The President, when he deems such action necessary, may make provision for the printing and distribution of reports, in such number and in such manner as he deems appropriate, concerning the actions taken to carry out the objectives of this Act [sections 2061–2166 of this Appendix]. (Sept. 8, 1950, ch. 932, title VII, § 710, 64 Stat. 819; July 31, 1951, 7:00 p. m., E.D.T., ch. 275, title I, § 109 (f), 65 Stat. 139, as amended June 28, 1955, ch. 189, § 12(c) (1), 69 Stat. 180; Aug. 9, 1955, ch. 655, §§ 7, 8, 69 Stat. 583.)

## § 2162. Joint Committee on Defense Production.

(a) There is established a joint congressional committee to be known as the Joint Committee on Defense Production (hereinafter referred to as the committee), to be composed of ten members as follows:

(1) Five members who are members of the Committee on Banking and Currency of the Senate, three from the majority and two from the minority party, to be appointed by the chairman of the committee; and

(2) Five members who are members of the Committee on Banking and Currency of the House of Representatives, three from the majority and two from the minority party, to be appointed by the chairman of the committee.

A vacancy in the membership of the committee shall be filled in the same manner as the original selection. The committee shall elect a chairman and a vice chairman from among its members, one of whom shall be a member of the Senate and the other a member of the House of Representatives.

(b) It shall be the function of the Committee to make a continuous study of the programs and of the fairness to consumers of the prices authorized by this Act [sections 2061—2166 of this Appendix] and to review the progress achieved in the execution and administration thereof. Upon request, the committee shall aid the standing committees of the Congress having legislative jurisdiction over any part of the programs authorized by this Act [said sections]; and it shall make a report to the Senate and the House of Representatives, from time to time, concerning the results of its studies, together with such recommendations as it may deem desirable. Any department, official, or agency administering any of such programs shall, at the request of the committee, consult with the committee, from time to time, with respect to their activities under this Act [said sections].

(c) The committee, or any duly authorized sub-committee thereof, is authorized to hold such hearings, to sit and act at such times and places, to require by subpoena (to be issued under the signature of the chairman or vice chairman of the committee) or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 40 cents per hundred words. The provisions of sections 102 to 104, inclusive, of the Revised Statutes [sections 192–194 of Title 2] shall

apply in case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection.

(d) The committee is authorized to appoint and, without regard to the Classification Act of 1949, as amended, fix the compensation of such experts, consultants, technicians, and organizations thereof, and clerical and stenographic assistants, as it deems necessary and advisable.

(e) The expenses of the committee under this section, which shall not exceed \$65,000 in any fiscal year, shall be paid from the contingent fund of the House of Representatives upon vouchers signed by the Chairman or Vice Chairman.

(f) The Secretary of Commerce shall make a special investigation and study of the production, allocation, distribution, use of nickel, of its resale as scrap, and of other aspects of the current situation with respect to supply and marketing of nickel, with particular attention to, among other things, the adequacy of the present system of nickel allocation between defense and civilian users. The Secretary of Commerce shall consult with the Joint Committee on Defense Production during the course of such investigation and study with respect to the progress achieved and the results of the investigation and study, and shall make an interim report on the results of the investigation and study on or before August 15, 1956, and shall, on or before December 31, 1956, make a final report on the results of such investigation and study, together with such recommendations as the Secretary of Commerce deems advisable. Such reports shall be made to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House of Representatives if the House is not in session.) (Sept. 8, 1950, ch. 932, title VII, § 712, 64 Stat. 820; June 30, 1952, 9:36 a. m., E.D.T., ch. 530, title I, § 119, 66 Stat. 306; as amended Aug. 9, 1955, ch. 655, § 9, 69 Stat. 583; June 29, 1956, ch. 474, §§ 3, 5, 70 Stat. 408.)

#### **§ 2166. Termination of Act.**

(a) Title I (except section 104), title III, and title VII (except section 714) of this Act [section 2071–2073, 2091–2094, 2151–2163, and 2164—2166 of this Appendix], and all authority conferred thereunder, shall terminate at the close of June 30, 1958. Section 714 of this Act [section 2163a of this Appendix], and all authority conferred thereunder, shall terminate at the close of July 31, 1953. Section 104, title II, and title VI of this Act [section 2074, 2081 and 2132—2137 of this Appendix], and all authority conferred thereunder, shall terminate at the close of June 30, 1953. Titles IV and V of this Act [sections 2101–2112 and 2121–2123 of this Appendix], and all authority conferred thereunder, shall terminate at the close of April 30, 1953.

(b) Notwithstanding the foregoing—

(1) The Congress by concurrent resolution or the President by proclamation may terminate this Act [sections 2061–2166 of this Appendix] prior to the termination otherwise provided therefor.

(2) The Congress may also provide by concurrent resolution that any section of this Act [said sections] and all authority

conferred thereunder shall terminate prior to the termination otherwise provided therefor.

(3) Any agency created under this Act [said sections] may be continued in existence for purposes of liquidation for not to exceed six months after the termination of the provision authorizing the creation of such agency.

(c) The termination of any section of this Act [sections 2061, 2062, 2071-2073, 2091-2094, 2151-2163 and 2164-2166 of this Appendix], or of any agency or corporation utilized under this Act [said section], shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act [said sections] prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act [said sections], or the taking of any action (including the making of new guarantees) deemed by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment or settlement of any loans guaranteed under this Act [sections 2061, 2062, 2071-2073 2091-2094, 2151-2163 and 2164-2166 of this Appendix], including actions deemed necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents, under section 301 of this Act [section 2091 of this Appendix] shall be applicable to actions taken pursuant to the authority contained in this subsection.

Notwithstanding any other provision of this Act [sections 2061-2123 and 2132-2166], the termination of title VI [sections 2132-2137 of this Appendix] or any section thereof shall not be construed as affecting any obligation, condition, liability, or restriction arising out of any agreement heretofore entered into pursuant to, or under the authority of, section 602 or section 605 of this Act [section 2132 or 2135 of this Appendix], or any issuance thereunder, by any person or corporation and the Federal Government or any agency thereof relating to the provision of housing for defense workers or military personnel in an area designated as a critical defense housing area pursuant to law.

(d) No action for the recovery of any cooperative payment made to a cooperative association by a Market Administrator under an invalid provision of a milk marketing order issued by the Secretary of Agriculture pursuant to the Agricultural Marketing Agreement Act of 1937 shall be maintained unless such action is brought by producers specifically named as party plaintiffs to recover their respective share of such payments within ninety days after the date of enactment of the Defense Production Act Amendments of 1952 [June 30, 1952] with respect to any cause of action heretofore accrued and not otherwise barred, or within ninety days after accrual with respect to future payments, and unless each claimant shall allege and prove (1) that he objected at the hearing to the provisions of the order under which such payments were made and (2) that he either refused to accept payments computed with such deduction or accepted them under protest to either the Secretary or the Administrator. The district courts of the United States shall have exclusive original jurisdiction

tion of all such actions regardless of the amount involved. This subsection shall not apply to funds held in escrow pursuant to court order. Notwithstanding any other provision of this Act [sections 2061–2166 of this Appendix], no termination date shall be applicable to this subsection. (Sept. 8, 1950, ch. 932, title VII, § 717, 64 Stat. 822; June 30, 1951, ch. 198, § 1, 65 Stat. 110; July 31, 1951, 7:00 p. m., E. D. T., ch. 275, title I, §§ 110 (b), 111, 65 Stat. 144; June 30, 1952, 9:36 a. m., E. D. T., ch. 530, title I, §§ 120, 121 (b), 66 Stat. 306; June 30, 1953, ch. 170, § 20, 67 Stat. 126; June 30, 1953, ch. 171 §§ 11, 12, 67 Stat. 131; June 30, 1955, ch. 251, § 5, 69 Stat. 225; Aug. 9, 1955, ch. 655, § 10, 69 Stat. 583; June 29, 1956, ch. 474, § 1, 70 Stat. 408.)

## Federal Civil Defense Act

(50 U.S.C. 2251–2297)

### § 2251. Congressional declaration of policy.

It is the policy and intent of Congress to provide a plan of civil defense for the protection of life and property in the United States from attack. It is further declared to be the policy and intent of Congress that this responsibility for civil defense shall be vested primarily in the several States and their political subdivisions. The Federal Government shall provide necessary coordination and guidance; shall be responsible for the operations of the Federal Civil Defense Administration as set forth in this Act [sections 2251–2297 of this Appendix]; and shall provide necessary assistance as hereinafter authorized. (Jan. 12, 1951, ch. 1228, § 2, 64 Stat. 1246.)

### § 2252. Definitions.

As used in this Act [sections 2251– 2297 of this Appendix]—

(a) The term “attack” means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or processes;

(b) The term “civil defense” means all those activities and measures designed or undertaken (1) to minimize the effects upon the civilian population caused or which would be caused by an attack upon the United States, (2) to deal with the immediate emergency conditions which would be created by any such attack, and (3) to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by any such attack. Such term shall include, but shall not be limited to, (A) measures to be taken in preparation for anticipated attack (including the establishment of appropriate organizations, operational plans, and supporting agreements; the recruitment and training of personnel; the conduct of research; the procurement and stockpiling of necessary materials and supplies; the provision of suitable warning systems; the construction or preparation of shelters, shelter areas, and control centers; and, when appropriate, the nonmilitary evacuation of civil population); (B) measures to be taken during attack (including the enforcement of passive

defense regulations prescribed by duly established military or civil authorities; the evacuation of personnel to shelter areas; the control of traffic and panic; and the control and use of lighting and civil communications); and (C) measures to be taken following attack (including activities for fire fighting; rescue, emergency medical, health and sanitation services; monitoring for specific hazards of special weapons; unexploded bomb reconnaissance; essential debris clearance; emergency welfare measures; and immediately essential emergency repair or restoration of damaged vital facilities);

(c) The term "organizational equipment" means equipment determined by the Administrator to be (1) necessary to a civil defense organization, as distinguished from personal equipment, and (2) of such a type or nature as to require it to be financed in whole or in part by the Federal Government. It shall not be construed to include those items which the local community normally utilizes in combating local disasters except when required in unusual quantities dictated by the requirements of the civil defense plans;

(d) The word "materials" shall include raw materials, supplies, medicine, equipment, component parts and technical information and processes necessary for civil defense;

(e) The word "facilities," except as otherwise provided in this Act [sections 2251—2297 of this Appendix], shall include buildings, shelters, utilities, and land;

(f) The term "United States" or "States" shall include the several States, the District of Columbia, the Territories, and the possessions of the United States; and

(g) The term "neighboring countries" shall include Canada and Mexico. (Jan. 12, 1951, ch. 1228, § 3, 64 Stat. 1246.)

### § 2253. Administrative authority.

For the purpose of carrying out his powers and duties under this Act [sections 2251—2297 of this Appendix], the Administrator is authorized to—

(a) employ civilian personnel for duty in the United States, including the District of Columbia, or elsewhere, subject to the civil service laws, and to fix the compensation of such personnel in accordance with the Classification Act of 1949, as amended; and notwithstanding the provisions of any other law, except those imposing restrictions upon dual compensation, employ, in a civilian capacity, with the approval of the President, not to exceed twenty-five retired personnel of the armed services on a full- or part-time basis without loss or reduction of or prejudice to their retired status;

(b) employ not more than one hundred such part-time or temporary advisory personnel (including not to exceed twenty-five subjects of the United Kingdom and the Dominion of Canada) as are deemed necessary in carrying out the provisions of this Act [sections 2251—2297 of this Appendix]. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Other members of such committees and other part-time or temporary advisory personnel so employed may serve without compensation or may

receive compensation at a rate not to exceed \$50 for each day of service, as determined by the Administrator;

(c) utilize the services of Federal agencies and, with the consent of any State or local government, accept and utilize the services of State and local civil agencies; establish and utilize such regional and other offices as may be necessary; utilize such voluntary and uncompensated services by individuals or organizations as may from time to time be needed; and authorize the States to establish and organize such individuals and organizations into units to be known collectively as the United States Civil Defense Corps: *Provided*, That the members of such corps shall not be deemed by reason of such membership to be appointees or employees of the United States;

(d) notwithstanding any other provisions of law, accept gifts of supplies, equipment, and facilities; and utilize or distribute same for civil defense purposes in accordance with the provisions of this Act [sections 2251-2297 of this Appendix];

(e) reimburse any Federal agency for any of its expenditures or for compensation of its personnel and utilization or consumption of its materials and facilities under this Act [sections 2251-2297 of this Appendix] to the extent funds are available;

(f) purchase such printing, binding, and blankbook work from public, commercial, or private printing establishments or binderies as he may deem necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 12 of the Printing Act approved January 12, 1895, as amended [section 14 of Title 44]; and

(g) prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act [sections 2251-2297 of this Appendix], and, without being relieved of his responsibility therefor, perform any of the powers and duties vested in him through or with the aid of such officials of the Administration as he may designate. (Jan. 12, 1951, ch. 1228, title IV, § 401, 64 Stat. 1254; June 28, 1955, ch. 189, § 12(c) (2), 69 Stat. 180.)

#### **§ 2254. Exemption from certain employment restrictions.**

The authority granted in subsections 401 (b) and (c) [section 2253 (b), (c) of this Appendix] shall be exercised in accordance with regulations of the President who may also provide by regulation for the exemption of persons employed or whose services are utilized under the authority of said subsections from the operation of sections 281, 283, 284, 434, and 1914 of Title 18 and section 190 of the Revised Statutes [section 99 of Title 5]. (Jan. 12, 1951, ch. 1228, title IV, § 402, 64 Stat. 1255.)

#### **§ 2255. Security regulations; oath.**

(a) The Administrator shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as he deems necessary. No employee of the Administration shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the

Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Administrator. No such employee shall occupy any position determined by the Administrator to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Civil Service Commission and a report thereon shall have been evaluated in writing by the Administrator. In the event such full field investigation by the Civil Service Commission develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Administrator for any other reason shall deem it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Administrator for his evaluation in writing. Thereafter the Administrator may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Administrator for his action.

(b) Each Federal employee of the Administration, except the subjects of the United Kingdom and the Dominion of Canada specified in section 401 (b) of this Act [section 2253 (b) of this Appendix], shall execute the loyalty oath or appointment affidavits prescribed by the Civil Service Commission. Each person other than a Federal employee who is appointed to serve in a State or local organization for civil defense shall before entering upon his duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

"I, \_\_\_\_\_, do solemnly swear (or affirm), that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of the (name of civil defense organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence."

After appointment and qualification for office, the director of civil defense of any State, and any subordinate civil defense officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in section 1621 of title 18. (Jan. 12, 1951,

ch. 1228, title IV, § 403, 64 Stat. 1255; Mar. 5, 1952, ch. 78, § 1 (b), 66 Stat. 13.)

**§ 2256. Transfer of certain functions, property, and personnel.**

The functions, property, and personnel of the Federal Civil Defense Administration established by Executive Order Numbered 10186, issued December 1, 1950 [set out as a note under 2271 of this Appendix], are transferred to the Administration established by this Act [sections 2251–2297 of this Appendix], and the President may transfer to the Administration such functions, property, and personnel of the National Security Resources Board concerned with civil defense activities as he deems necessary to carry out the purposes of this Act [said sections]. (Jan. 12, 1951, ch. 1228, title IV, § 404, 64 Stat. 1256.)

**§ 2257. Utilization of existing facilities.**

In performing his duties, the Administrator shall (1) cooperate with the various departments and agencies of the Government; (2) utilize to the maximum extent the existing facilities and resources of the Federal Government, and, with their consent, the facilities and resources of the States and local political subdivisions thereof, and of other organizations and agencies; and (3) refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the Administrator, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this Act [sections 2251–2297 of this Appendix]. (Jan. 12, 1951, ch. 1228, title IV, § 405, 64 Stat. 1256.)

**§ 2258. Reports to Congress.**

The Administrator shall annually submit a written report to the President and the Congress covering expenditures, contributions, work, and accomplishments of the Administration, pursuant to this Act [sections 2251–2297 of this Appendix], accompanied by such recommendations as he shall deem appropriate. (Jan. 12, 1951, ch. 1228, title IV, § 406, 64 Stat. 1256.)

**§ 2259. Applicability of sections 2251–2297 of this Appendix.**

The provisions of this Act [sections 2251–2297 of this Appendix] shall be applicable to the United States, its States, Territories and possessions, and the District of Columbia, and their political subdivisions. (Jan. 12, 1951, ch. 1228, title IV, § 407, 64 Stat. 1256.)

**§ 2260. Appropriations and transfers of funds.**

There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this Act [sections 2251–2297 of this Appendix]. Funds made available for the purposes of this Act [said sections] may be allocated or transferred for any of the purposes of this Act [said sections], with the approval of the Bureau of the Budget, to any agency or Government corporation designated to assist in carrying out this Act [said sections]: *Provided*, That each such allocation or transfer

shall be reported in full detail to the Congress within thirty days after such allocation or transfer. (Jan. 12, 1951, ch. 1228, title IV, § 408, 64 Stat. 1257.)

**§ 2262. Atomic Energy Act of 1946 unaffected.**

Nothing in this Act [sections 2251–2297 of this Appendix] shall be construed to amend or modify the provisions of the Atomic Energy Act of 1946, as amended. (Jan. 12, 1951, ch. 1228, title IV, § 410, 64 Stat. 1257.)

**§ 2263. Investigation of espionage, sabotage, or subversive acts.**

Nothing in this Act [sections 2251–2297 of this Appendix] shall be construed to authorize investigations of espionage, sabotage, or subversive acts by any persons other than personnel of the Federal Bureau of Investigation. (Jan. 12, 1951, ch. 1228, title IV, § 411, 64 Stat. 1257.)

**§ 2264. Establishment of “Civil defense procurement fund”; uses; charges against fund.**

There is established a working capital of \$5,000,000 for the “Civil defense procurement fund,” which is established for the purpose of financing the procurement, by the Administrator, of materials or organizational equipment for which financial contributions to the States are otherwise authorized to be made on a matching basis by subsection (i) of section 2281 of this Appendix. Said fund shall be charged with the purchase price of said materials or equipment, and shall be paid therefor in advance, or by reimbursement, in equal amounts from (1) applicable appropriations and (2) funds provided by the States. Such materials or organizational equipment may be delivered to any State, and the Federal share of the purchase price of materials or organizational equipment so delivered shall be in lieu of equivalent financial contributions therefor. (June 2, 1951, ch. 121, ch. XI, 65 Stat. 61.)

**§ 2271. Federal Civil Defense Administration.**

**(a) ESTABLISHMENT; APPOINTMENT OF ADMINISTRATOR.**

There is established in the executive branch of the Government a Federal Civil Defense Administration (hereinafter referred to as the “Administration”) at the head of which shall be a Federal Civil Defense Administrator appointed from civilian life by the President, by and with the advice and consent of the Senate.

**(b) DEPUTY ADMINISTRATOR; APPOINTMENT; DUTIES.**

There shall be in the Administration a Deputy Administrator who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions as the Administrator shall prescribe and shall act for, and exercise the powers and perform the duties of, the Administrator during his absence or disability.

**(c) ADMINISTRATOR SUBJECT TO PRESIDENTIAL CONTROL.**

The Administrator shall perform his functions subject to the direction and control of the President. (July 31, 1956, ch. 804, title I, §§ 104 (a), 105, 70 Stat. 736, 737.)

**§ 2272. Civil Defense Advisory Administration; establishment; duties; composition; tenure; meetings; additional advisory committees; compensation.**

(a) There is created a Civil Defense Advisory Council, hereinafter referred to as the Council, which shall advise and consult with the Administrator with respect to general or basic policy matters relating to civil defense. The Council shall consist of the Administrator, who shall be chairman, and twelve additional members to be appointed by the President, of whom three members shall be representative of the State governments, three members shall be representative of the political subdivisions of the States and the remaining members shall be selected among the citizens of the United States of broad and varied experience in matters affecting the public interest, other than officers and employees of the United States (including any department or agency of the United States) who, as such, regularly receive compensation for current services. The following organizations shall be invited to establish panels of names for the members representative of the States and the political subdivisions thereof:

The Council of State Governments.

The Governors' Conference.

The American Municipal Association.

The United States Conference of Mayors.

The representatives of the States and the political subdivisions thereof appointed by the President shall be selected from the panels established by the above-mentioned organizations. Not more than a majority of two of the members shall be appointed to the Council from the same political party. Each member shall hold office for a term of three years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after January 12, 1951, shall expire, as designated by the President at the time of appointment, four at the end of one year, four at the end of two years and four at the end of three years, after January 12, 1951. The Council shall meet at least once in each calendar year and at such other times as the Administrator shall determine that its advice and counsel will be of assistance to the program.

(b) The Administrator may appoint such other advisory committees as are deemed necessary.

(c) The members of the Council and the members of any other advisory committees, other than the Administrator, may be compensated at rates not in excess of those prescribed in section 401 (b) of this Act [section 2253 (b) of this Appendix]. (Jan. 12, 1951, ch. 1228, title I, § 102, 64 Stat. 1247.)

**§ 2281. Functions of Administrator.**

The Administrator is authorized, in order to carry out the above-mentioned purposes, to—

(a) PREPARATION OF PLANS FOR CIVIL DEFENSE.

Prepare national plans and programs for the civil defense of the United States, making such use of plans and programs previously initiated by the National Security Resources Board as is

feasible; sponsor and direct such plans and programs; and request such reports on State plans and operations for civil defense as may be necessary to keep the President, the Congress and the several States advised of the status of civil defense in the United States;

(b) DELEGATION OF CIVIL DEFENSE RESPONSIBILITIES.

Delegate, with the approval of the President, to the several departments and agencies of the Federal Government appropriate civil defense responsibilities, and review and coordinate the civil defense activities of the departments and agencies with each other and with the activities of the States and neighboring countries;

(c) ESTABLISHMENT OF CIVIL DEFENSE COMMUNICATIONS; DISSEMINATION OF WARNINGS.

Make appropriate provision for necessary civil defense communications and for dissemination of warnings of enemy attacks to the civilian population;

(d) DEVELOPMENT OF PROTECTIVE MEASURES; SHELTERS; AND EQUIPMENT.

Study and develop civil defense measures designed to afford adequate protection of life and property, including, but not limited to, research and studies as to the best methods of treating the effects of attacks; developing shelter designs and materials for protective covering or construction; and developing equipment or facilities and effecting the standardization thereof to meet civil defense requirements;

(e) TRAINING PROGRAMS; ESTABLISHMENT OF A COLLEGE AND TECHNICAL TRAINING SCHOOLS.

Conduct or arrange, by contract or otherwise, for training programs for the instruction of civil defense officials and other persons in the organization, operation, and techniques of civil defense; conduct or operate schools or classes, including the payment of travel expenses, in accordance with the Travel Expenses Act of 1949, as amended [sections 835-842 of title 5], and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Administrator; and provide instructors and training aids as deemed necessary: *Provided*, That not more than one national civil defense college and three civil defense technical training schools shall be established under the authority of this subsection: *Provided further*, That the Administrator is authorized to lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by Act of Congress.

(f) DISSEMINATION OF INFORMATION.

Publicly disseminate appropriate civil defense information by all appropriate means;

(g) ENCOURAGEMENT OF STATE CIVIL DEFENSE WORK.

Assist and encourage the States to negotiate and enter into interstate civil defense compacts; review the terms and conditions of such proposed compacts in order to assist to the extent feasible

in obtaining uniformity therein and consistency with the national civil defense plans and programs; assist and coordinate the activities thereunder; aid and assist in encouraging reciprocal civil defense legislation by the States which will permit the furnishing of mutual aid for civil defense purposes in the event of an attack which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or undergoing an attack: *Provided*, That a copy of each such civil defense compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of the Congress shall be granted to each such compact, upon the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which the compact is transmitted to it; but only if, between the date of transmittal and expiration of such sixty-day period, there has not been passed a concurrent resolution stating in substance that the Congress does not approve the compact: *Provided*, That nothing in this subsection shall be construed as preventing Congress from withdrawing at any time its consent to any such compact;

(h) ACQUISITION OF NECESSARY DEFENSE MATERIALS AND FACILITIES.

Procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for civil defense, with the right to take immediate possession thereof: *Provided*, That facilities acquired by purchase, donation, or other means of transfer may be occupied, used, and improved for the purposes of this Act [sections 2251-2297 of this Appendix], prior to the approval of title by the Attorney General as required by section 355 of the Revised Statutes, as amended [section 255 of Title 40]: *Provided further*, That the Administrator shall report not less often than quarterly to the Congress all property acquisitions made pursuant to this subsection: *Provided further*, That the Administrator is authorized to lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by Act of Congress.

(i) FINANCIAL AID TO STATES.

Make financial contributions on the basis of programs or projects approved by the Administrator, to the States for civil defense purposes, including, but not limited to the, procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Administrator shall prescribe, including, but not limited to, the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities: *Provided*, That, except as otherwise provided in section 303 (d) of this Act [section 2293 of this Appendix], no contributions shall be made for State or local personnel and administrative expenses, or for items of personal equipment for State or local workers, or for the procurement of land: *Provided further*, That the amounts authorized to be contributed by the Administrator to each State for organizational equipment shall be equally matched by such State from

any source it determines is consistent with its laws: *Provided further*, That financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Administrator for such facilities in each fiscal year and apportioning same among the States in the ratio which the urban population of the critical target areas (as determined by the Administrator, after consultation with the Secretary of Defense) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States: *Provided further*, That the amounts authorized to be contributed by the Administrator to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Administrator may reallocate same to other States on the formula outlined above: *Provided further*, That the value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share: *Provided further*, That the amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with the State civil defense programs or projects approved by the Administrator: *Provided further*, That the Administrator shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (1) is intended for use, in whole or in part, for any purpose other than civil defense and (2) is of such kind that upon completion it will, in his judgment, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost, except that (subject to the foregoing provisos of this subsection) he may make contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which he shall determine to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in his judgment, necessary for the use of such facility for civil defense purposes. *Provided further*, That the limitations upon the making of Federal contributions contained in the second, third, and fourth provisos of this sentence may be varied for the Territory of Alaska. Whenever the Administrator, after reasonable notice and opportunity for hearing the State, finds that there is a failure to expend funds in accordance with the terms and conditions governing the Federal contribution for such approved programs or projects, the Administrator shall notify such State that further payments will not be made to the State from appropriations under this Act [sections 2251-2297 of this Appendix] or from funds otherwise available for the purposes of this Act [said sections] (or in his discretion from appropriations under this Act [said sections] or from funds otherwise available for the purposes of this Act [said sections] for any approved program or project with respect to which there is such failure to comply) until he is satisfied that there will no longer be any such failure. Until he is so satisfied, the Administrator shall either withhold the payment of any financial contributions to such State, or limit payments to the program or project with respect to which there

is substantial compliance with the terms and conditions governing the Federal contribution for such program or project: *Provided*, That the Administrator shall report not less often than quarterly to the Congress all contributions made pursuant to this subsection.

**(j) SALE AND DISPOSITION OF SURPLUS PROPERTY.**

Arrange for the sale or disposal of materials and facilities found by the Administrator to be unnecessary or unsuitable for civil defense purposes in the same manner as provided for excess property in the Federal Property and Administrative Services Act of 1949, as amended, and any funds received as proceeds from the sale or other disposition of such materials and facilities shall be covered into the Treasury as miscellaneous receipts. (Jan. 12, 1951, ch. 1228, title II, § 201, 64 Stat. 1248; Mar. 5, 1952, ch. 78, § 1 (a), 66 Stat. 13; June 25, 1952, ch. 461, 66 Stat. 158; Aug. 2, 1956, ch. 888, § 1, 70 Stat. 949.)

**§ 2282. Definition of “national defense” or “defense”.**

The terms “national defense” or “defense” as used in title II of the Defense Production Act of 1950 [section 2081 of this Appendix] shall be construed to include “civil defense” as defined in this Act [sections 2251–2297 of this Appendix]. (Jan. 12, 1951, ch. 1228, title II, § 202, 64 Stat. 1251.)

**§ 2283. Mutual aid pacts between States and neighboring countries.**

The Administrator shall give all practicable assistance to States in arranging, through the Department of State, mutual civil defense aid between the States and neighboring countries. (Jan. 12, 1951, ch. 1228, title II, § 203, 64 Stat. 1251.)

**§ 2284. Identity insignia; manufacture, possession, or wearing; penalties.**

The Administrator may prescribe insignia, arm bands, and other distinctive articles (including designs previously covered under Letters Patent which were assigned to the United States and held by the Office of Civilian Defense created by Executive Order Numbered 8757 issued May 20, 1941) which may be manufactured for or possessed or worn by persons engaged in civil defense activities pursuant to rules and regulations for the manufacture, possession, or wearing thereof established by the Administrator. The manufacture, possession, or wearing of any such insignia, arm band, or other distinctive article otherwise than in accordance with such rules and regulations shall be unlawful and shall subject such person to a fine of not more than \$1,000 or imprisonment of not more than one year, or both. (Jan. 12, 1951, ch. 1228, title II, § 204, 64 Stat. 1251.)

**§ 2285. Real property transactions.**

**(a) AGREEMENTS BETWEEN ADMINISTRATION AND ARMED SERVICES COMMITTEES OF CONGRESS.**

The Administrator of the Federal Civil Defense Administration, or his designee, must come to an agreement with the Committees on Armed Services of the Senate and the House of Representatives before entering into any of the following transactions by or for the use of that administration:

(1) An acquisition of fee title to any real property, if the estimated price is more than \$25,000.

(2) A lease of any real property to the United States, if the estimated annual rental is more than \$25,000.

(3) A lease of real property owned by the United States, if the estimated annual rental is more than \$25,000.

(4) A transfer of real property owned by the United States to another Federal agency or to a State, if the estimated value is more than \$25,000.

(5) A report of excess real property owned by the United States to a disposal agency, if the estimated value is more than \$25,000.

If a transaction covered by clause (1) or (2) [of this subsection] is part of a project, the agreement must be based on the general plan for that project, including an estimate of the total cost of the lands to be acquired or leases to be made.

(b) QUARTERLY REPORTS TO ARMED SERVICES COMMITTEES.

The Administrator shall report quarterly to the Committees on Armed Services of the Senate and the House of Representatives on transactions described in subsection (a) [of this section] that involve an estimated value of more than \$5,000 but not more than \$25,000.

(c) REAL PROPERTY GOVERNED BY THIS SECTION.

This section applies only to real property in the United States, Alaska, Hawaii, and Puerto Rico. It does not apply to real property for river and harbor projects or flood-control projects, or to leases of Government-owned real property for agricultural or grazing purposes.

(d) RECITAL OF COMPLIANCE IN INSTRUMENT OF CONVEYANCE AS CONCLUSIVE.

A statement in an instrument of conveyance, including a lease, that the requirements of this section have been met, or that the conveyance is not subject to this section, is conclusive. (Aug. 10, 1956, ch. 1041, § 43, 70 A. Stat. 636.)

**§ 2291. Sections 2291–2297 of this Appendix effective only during civil defense emergency; proclamation of emergency; termination.**

The provisions of this title [sections 2291–2297 of this Appendix] shall be operative only during the existence of a state of civil defense emergency (referred to hereinafter in this title [said sections] as “emergency”). The existence of such emergency may be proclaimed by the President or by concurrent resolution of the Congress if the President in such proclamation, or the Congress in such resolution, finds that an attack upon the United States has occurred or is anticipated and that the national safety therefor requires an invocation of the provisions of this title [said sections]. Such emergency also shall exist with respect to any designated geographic area or areas of the United States when the President determines that any such attack has been made upon or is anticipated within such area or areas, and directs the Administrator to proceed pursuant to the provisions of this title [said sections] with respect to such area or areas. Any such emergency shall terminate upon the proclamation of the termination thereof by the President, or the passage by the Congress of

a concurrent resolution terminating such emergency. (Jan. 12, 1951, ch. 1228, title III, § 301, 64 Stat. 1251.)

**§ 2293. Emergency powers of Administrator.**

During the period of such emergency, the Administrator is authorized to—

(a) exercise the authority contained in section 201 (h) [section 2281 (h) of this Appendix] without regard to the limitation of any existing law, including the provisions of the Act of June 30, 1932, as amended [section 278a of Title 40], and section 3709 of the Revised Statutes, as amended [section 5 of Title 41], and section 3734 of the Revised Statutes, as amended [sections 259 and 269 of Title 40], and the Federal Property and Administrative Services Act of 1949, as amended;

(b) sell, lease, transfer, or deliver materials or perform services for civil defense purposes on such terms and conditions as the Administrator shall prescribe and without regard to the limitations of existing law: *Provided*, That any funds received from the sale or other disposition of materials or for services shall be deposited to the credit of appropriations currently available and made pursuant to this Act [sections 2251–2297 of this Appendix] and shall be available for expenditure for the purposes of such appropriations;

(c) coordinate and direct, for civil defense purposes, the relief activities of the various departments and agencies of the United States as provided in section 302 hereof [section 2292 of this Appendix];

(d) reimburse any State, including any political subdivisions thereof, for the compensation paid to and the transportation, subsistence, and maintenance expenses of any employees while engaged in rendering civil defense aid outside the State and to pay fair and reasonable compensation for the materials of the State government or any political subdivision utilized or consumed outside of the State, including any transportation costs, in accordance with rules and regulations prescribed by the Administrator. As used in this subsection, the term “employees” shall include full- or part-time paid, volunteer, auxiliary, and civil defense workers subject to the order or control of a State government or any political subdivision thereof, and such employees shall not be deemed by reason of such reimbursement to be employees or appointees of the United States;

(e) provide financial assistance for the temporary relief or aid of any civilian injured or in want as the result of any attack; and

(f) employ temporarily additional personnel without regard to the civil service laws and to incur such obligations on behalf of the United States as may be required to meet the civil defense requirements of an attack or of an anticipated attack.

During the period of any such emergency, the Administrator shall transmit quarterly to the Congress a detailed report concerning all action taken pursuant to this section. (Jan. 12, 1951, ch. 1228, title III, § 303, 64 Stat. 1252.)

**§ 2294. Government immune from liability for death or personal injury to employees; benefits employees entitled to.**

The Federal Government shall not be liable for any damage to

property or for any death or personal injury occurring directly or indirectly as a result of the exercise or performance of, or failure to exercise or perform, any function or duty, by any Federal agency or employee of the Government, in carrying out the provisions of this title [sections 291–297 of this Appendix] during the period of such emergency. Nothing contained in this section shall affect the right of any person to receive any benefit or compensation to which he might otherwise be entitled under the Federal Employees' Compensation Act, as amended, or any other Act of Congress providing for any pension or retirement. (Jan. 12, 1951, ch. 1228, title III, § 304, 64 Stat. 1253.)

**§ 2295. Waiver of Administrative Procedure Act.**

During the period of such emergency, the functions and duties exercised under this Act [sections 2251–2297 of this Appendix] shall be excluded from the operation of the Administrative Procedure Act, except as to the requirements of section 3 thereof [section 1002 of Title 5]. (Jan. 12, 1951, ch. 1228, title III, § 305, 64 Stat. 1253.)

**§ 2296. Compensation for acquisition of nongovernmental property; return of property to owner; disposal of surplus property.**

(a) Except in the case of property acquired pursuant to section 201 (h) of this Act [section 2281 (h) of this Appendix] in conformity with the provisions of the Federal Property and Administrative Services Act of 1949, as amended, or through judicial proceedings for condemnation, the Administrator shall promptly determine the amount of the compensation to be paid for any property (other than that of the Federal Government or any department or agency thereof) or the use thereof acquired pursuant to this Act [sections 2251–2297 of this Appendix], but each such determination shall be made as of the time it is acquired in accordance with the provisions for just compensation in the fifth amendment to the Constitution of the United States. If the person entitled to receive the amount so determined by the Administrator as just compensation is unwilling to accept the same as full and complete compensation for such property or the use thereof, he shall be paid promptly 75 per centum of such amount and shall be entitled to recover from the United States, in an action brought in the Court of Claims, or, without regard to whether the amount involved exceeds \$10,000, in any district court of the United States, within three years after the date of the Administrator's award, such additional amount, if any, which, when added to the amount so paid to him, shall be just compensation.

(b) Whenever the Administrator determines that any real property acquired by him is no longer needed for the purposes of this Act [sections 2251–2297 of this Appendix], he shall, if the original owner desires the return of the property and pays to the Administrator the fair value thereof, return such property to such owner. In the event the Administrator and the original owner do not agree as to the fair value of such property, the fair value shall be determined by three appraisers, one of whom shall be chosen by the Administrator, one by the original owner, and the third by the first two appraisers; the expenses of such determi-

nation shall be paid in equal shares by the Government and the original owner.

(c) Whenever the need for the purposes of this Act [sections 2251-2297 of this Appendix] of any personal property acquired under this Act [said sections] shall terminate, the Administrator may dispose of such property on such terms and conditions as he shall deem appropriate, but to the extent feasible and practicable he shall give to the former owner of any property so disposed of an opportunity to reacquire it (1) at its then fair value as determined by the Administrator, or (2) if it is to be disposed of (otherwise than at a public sale of which he shall give reasonable notice) at less than such value, at the highest price any other person is willing to pay therefor: *Provided*, That this opportunity to reacquire need not be given in the case of fungibles or items having a fair value of less than \$1,000. (Jan. 12, 1951, ch. 1228, title III, § 306, 64 Stat. 1253.)

**§ 2297. Termination of sections 2291-2297 of this Appendix.**

The provisions of this title [sections 2291-2297 of this Appendix] shall terminate on June 30, 1958, or on such earlier date as may be prescribed by concurrent resolution of the Congress. (As amended June 3, 1954, ch. 253, 68 Stat. 170.)

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