

FEDERAL AGRICULTURE IMPROVE- MENT AND REFORM ACT OF 1996

[As Amended Through P.L. 110-246, Effective May 22, 2008]

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TITLE III—CONSERVATION

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Subtitle B—Highly Erodible Land Conservation

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SEC. 317. [16 U.S.C. 3811 note] WIND EROSION ESTIMATION PILOT PROJECT.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a pilot project to review, and modify as appropriate, the use of wind erosion factors under the highly erodible conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.).

(b) SELECTION OF COUNTIES AND PRODUCERS.—The pilot project shall be conducted for producers in those counties that—

(1) have approximately 100 percent of their cropland determined to be highly erodible under title XII of the Act;

(2) have a reasonable likelihood that the use of wind erosion factors under title XII of the Act have resulted in an inequitable application of the highly erodible land requirements of title XII of the Act; and

(3) if the use of the land classification system under section 1201(a)(9)(A) of the Act (as redesignated by section 301(a)(1)) may result in a more accurate delineation of the cropland.

(c) ERRORS IN DELINEATION.—If the Secretary determines that a significant error has occurred in delineating cropland under the pilot project, the Secretary shall, at the request of the owners or operators of the cropland, conduct a new delineation of the cropland using the most accurate available delineation process, as determined by the Secretary.

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Subtitle C—Wetland Conservation

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SEC. 325. CLARIFICATION OF DEFINITION OF AGRICULTURAL LANDS IN MEMORANDUM OF AGREEMENT.

(a) AGRICULTURAL LANDS.—For purposes of implementing the memorandum of agreement entered into between the Department of Agriculture, the Environmental Protection Agency, the Department of the Interior, and the Department of the Army on January 6,

1994, relating to the delineation of wetlands, the term “agricultural lands” shall include—

- (1) native pasture, rangelands, and other lands used to produce or support the production of livestock; and
- (2) tree farms.

(b) WETLAND CONSERVATION.—Subsection (a) shall not apply with respect to the delineation of wetlands under subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) or to the enforcement of the subtitle.

(c) SUCCESSOR MEMORANDUM.—Subsection (a) shall apply to any amendment to or successor of the memorandum of agreement described in subsection (a).

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Subtitle E—Conservation Funding and Administration

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SEC. 343. [16 U.S.C. 3862 note] PUBLIC NOTICE AND COMMENT FOR REVISIONS TO CERTAIN STATE TECHNICAL GUIDES.

After the date of enactment of this Act, the Secretary of Agriculture shall provide for public notice and comment under section 553 of title 5, United States Code, with regard to any future revisions to those provisions of the Natural Resources Conservation Service State technical guides that are used to carry out subtitles A, B, and C of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

Subtitle F—National Natural Resources Conservation Foundation

SEC. 351. [16 U.S.C. 5801 note] SHORT TITLE.

This subtitle may be cited as the “National Natural Resources Conservation Foundation Act”.

SEC. 352. [16 U.S.C. 5801] DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term “Board” means the Board of Trustees established under section 354.

(2) DEPARTMENT.—The term “Department” means the Department of Agriculture.

(3) FOUNDATION.—The term “Foundation” means the National Natural Resources Conservation Foundation established by section 353(a).

(4) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

SEC. 353. [16 U.S.C. 5802] NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION.

(a) ESTABLISHMENT.—A National Natural Resources Conservation Foundation is established as a charitable and nonprofit corporation for charitable, scientific, and educational purposes specified in subsection (b). The Foundation is not an agency or instrumentality of the United States.

(b) DUTIES.—The Foundation shall—

(1) promote innovative solutions to the problems associated with the conservation of natural resources on private lands, particularly with respect to agriculture and soil and water conservation;

(2) promote voluntary partnerships between government and private interests in the conservation of natural resources;

(3) conduct research and undertake educational activities, conduct and support demonstration projects, and make grants to State and local agencies and nonprofit organizations;

(4) provide such other leadership and support as may be necessary to address conservation challenges, such as the prevention of excessive soil erosion, the enhancement of soil and water quality, and the protection of wetlands, wildlife habitat, and strategically important farmland subject to urban conversion and fragmentation;

(5) encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the conservation and related activities and services of the Department, particularly the Natural Resources Conservation Service;

(6) undertake, conduct, and encourage educational, technical, and other assistance, and other activities, that support the conservation and related programs administered by the Department (other than activities carried out on National Forest System lands), particularly the Natural Resources Conservation Service, except that the Foundation may not enforce or administer a regulation of the Department; and

(7) raise private funds to promote the purposes of the Foundation.

(c) LIMITATIONS AND CONFLICTS OF INTEREST.—

(1) POLITICAL ACTIVITIES.—The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(2) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation, partnership, entity, organization, or other person in which the director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(3) LEGISLATION OR GOVERNMENT ACTION OR POLICY.—No funds of the Foundation may be used in any manner for the purpose of influencing legislation or government action or policy.

(4) LITIGATION.—No funds of the Foundation may be used to bring or join an action against the United States.

SEC. 354. [16 U.S.C. 5803] COMPOSITION AND OPERATION.

(a) COMPOSITION.—The Foundation shall be administered by a Board of Trustees that shall consist of 9 voting members, each of whom shall be a United States citizen and not a Federal officer. The Board shall be composed of—

- (1) individuals with expertise in agricultural conservation policy matters;
- (2) a representative of private sector organizations with a demonstrable interest in natural resources conservation;
- (3) a representative of statewide conservation organizations;
- (4) a representative of soil and water conservation districts;
- (5) a representative of organizations outside the Federal Government that are dedicated to natural resources conservation education; and
- (6) a farmer or rancher.

(b) **NONGOVERNMENTAL EMPLOYEES.**—Service as a member of the Board shall not constitute employment by, or the holding of, an office of the United States for the purposes of any Federal law.

(c) **MEMBERSHIP.**—

(1) **INITIAL MEMBERS.**—The Secretary shall appoint 9 persons who meet the criteria established under subsection (a) as the initial members of the Board and designate 1 of the members as the initial chairperson for a 2-year term.

(2) **TERMS OF OFFICE.**—

(A) **IN GENERAL.**—A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) **LIMITATION ON TERMS.**—No individual may serve more than 2 consecutive 3-year terms as a member of the Board.

(3) **SUBSEQUENT MEMBERS.**—The initial members of the Board shall adopt procedures in the constitution of the Foundation for the nomination and selection of subsequent members of the Board. The procedures shall require that each member, at a minimum, meets the criteria established under subsection (a) and shall provide for the selection of an individual, who is not a Federal officer or a member of the Board.

(d) **CHAIRPERSON.**—After the appointment of an initial chairperson under subsection (c)(1), each succeeding chairperson of the Board shall be elected by the members of the Board for a 2-year term.

(e) **VACANCIES.**—A vacancy on the Board shall be filled by the Board not later than 60 days after the occurrence of the vacancy.

(f) **COMPENSATION.**—A member of the Board shall receive no compensation from the Foundation for the service of the member on the Board.

(g) **TRAVEL EXPENSES.**—While away from the home or regular place of business of a member of the Board in the performance of services for the Board, the member shall be allowed travel expenses paid by the Foundation, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service is allowed under section 5703 of title 5, United States Code.

SEC. 355. [16 U.S.C. 5804] OFFICERS AND EMPLOYEES.

(a) **IN GENERAL.**—The Board may—

(1) appoint, hire, and discharge the officers and employees of the Foundation, other than appoint the initial Executive Director of the Foundation;

(2) adopt a constitution and bylaws for the Foundation that are consistent with the purposes of this subtitle; and

(3) undertake any other activities that may be necessary to carry out this subtitle.

(b) OFFICERS AND EMPLOYEES.—

(1) APPOINTMENT AND HIRING.—An officer or employee of the Foundation—

(A) shall not, by virtue of the appointment or employment of the officer or employee, be considered a Federal employee for any purpose, including the provisions of title 5, United States Code, governing appointments in the competitive service, except that such an individual may participate in the Federal employee retirement system as if the individual were a Federal employee; and

(B) may not be paid by the Foundation a salary in excess of \$125,000 per year.

(2) EXECUTIVE DIRECTOR.—

(A) INITIAL DIRECTOR.—The Secretary shall appoint an individual to serve as the initial Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(B) SUBSEQUENT DIRECTORS.—The Board shall appoint each subsequent Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(C) QUALIFICATIONS.—The Executive Director shall be knowledgeable and experienced in matters relating to natural resources conservation.

SEC. 356. [16 U.S.C. 5805] CORPORATE POWERS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) may conduct business throughout the United States and the territories and possessions of the United States; and

(2) shall at all times maintain a designated agent who is authorized to accept service of process for the Foundation, so that the serving of notice to, or service of process on, the agent, or mailed to the business address of the agent, shall be considered as service on or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board that shall be judicially noticed.

(c) POWERS.—To carry out the purposes of the Foundation under section 353(b), the Foundation shall have, in addition to the powers otherwise provided under this subtitle, the usual powers of a corporation, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income from, or other interest in, the gift, devise, or bequest;

(2) to acquire by purchase or exchange any real or personal property or interest in property, except that funds provided under section 360 may not be used to purchase an interest in real property;

(3) unless otherwise required by instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property;

(4) on the written approval of the Secretary, to use, license, or transfer symbols, slogans, and logos of the Foundation (exclusive of any symbol or logo of a governmental entity);

(5) to borrow money from private sources and issue bonds, debentures, or other debt instruments, subject to section 359, except that the aggregate amount of the borrowing and debt instruments outstanding at any time may not exceed \$1,000,000;

(6) to sue and be sued, and complain and defend itself, in any court of competent jurisdiction, except that a member of the Board shall not be personally liable for an action in the performance of services for the Board, except for gross negligence;

(7) to enter into a contract or other agreement with an agency of State or local government, educational institution, or other private organization or person and to make such payments as may be necessary to carry out the functions of the Foundation; and

(8) to do any and all acts that are necessary to carry out the purposes of the Foundation.

(d) INTERESTS IN PROPERTY.—

(1) INTERESTS IN REAL PROPERTY.—The Foundation may acquire, hold, and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange. An interest in real property shall be treated, among other things, as including an easement or other right for the preservation, conservation, protection, or enhancement of agricultural, natural, scenic, historic, scientific, educational, inspirational, or recreational resources.

(2) GIFTS.—A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.

(3) USE OF SYMBOLS, SLOGANS, AND LOGOS OF THE FOUNDATION.—

(A) IN GENERAL.—The Secretary may authorize the Foundation to use, license, or transfer symbols, slogans, and logos of the Foundation.

(B) INCOME.—

(i) IN GENERAL.—All revenue received by the Foundation from the use, licensing, or transfer of symbols, slogans, and logos of the Foundation shall be transferred to the Secretary.

(ii) CONSERVATION OPERATIONS.—The Secretary shall transfer all revenue received under clause (i) to the account within the Natural Resources Conservation Service that is used to carry out conservation operations.

SEC. 357. [16 U.S.C. 5806] ADMINISTRATIVE SERVICES AND SUPPORT.

For each of fiscal years 1996 through 1998, the Secretary may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

SEC. 358. [16 U.S.C. 5807] AUDITS AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—

(1) IN GENERAL.—The accounts of the Foundation shall be audited in accordance with Public Law 88–504 (36 U.S.C. 1101 et seq.), including an audit of lobbying and litigation activities carried out by the Foundation.

[(2) ³⁵⁸⁻¹]

(b) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—The Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate, if the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with this subtitle; or

(2) refuses, fails, neglects, or threatens to refuse, fail, or neglect, to discharge the obligations of the Foundation under this subtitle.

SEC. 359. [16 U.S.C. 5808] RELEASE FROM LIABILITY.

(a) IN GENERAL.—The United States shall not be liable for any debt, default, act, or omission of the Foundation. The full faith and credit of the United States shall not extend to the Foundation.

(b) STATEMENT.—An obligation issued by the Foundation, and a document offering an obligation, shall include a prominent statement that the obligation is not directly or indirectly guaranteed, in whole or in part, by the United States (or an agency or instrumentality of the United States).

SEC. 360. [16 U.S.C. 5809] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department to be made available to the Foundation \$1,000,000 for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation.

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Subtitle H—Miscellaneous Conservation Provisions

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SEC. 385. [7 U.S.C. 7334] FLOOD RISK REDUCTION.

(a) IN GENERAL.—During fiscal years 1996 through 2002, the Secretary of Agriculture (referred to in this section as the “Secretary”) may enter into a contract with a producer on a farm who has contract acreage under the Agricultural Market Transition Act that is frequently flooded.

(b) DUTIES OF PRODUCERS.—Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to—

(1) the termination of any contract acreage and production flexibility contract under the Agricultural Market Transition Act;

(2) forgo loans for contract commodities, oilseeds, and extra long staple cotton;

(3) not apply for crop insurance issued or reinsured by the Secretary;

³⁵⁸⁻¹ Para. (2) was repealed by sec. 6(b) of P.L. 105–225, 112 Stat. 1511, Aug. 12, 1998.

(4) comply with applicable highly erodible land and wetlands conservation compliance requirements established under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(5) not apply for any conservation program payments from the Secretary;

(6) not apply for disaster program benefits provided by the Secretary; and

(7) refund the payments, with interest, issued under the flood risk reduction contract to the Secretary, if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract.

(c) DUTIES OF THE SECRETARY.—In return for a contract entered into by a producer under this section, the Secretary shall pay the producer an amount that is not more than 95 percent of projected contract payments under the Agricultural Market Transition Act that the Secretary estimates the producer would otherwise have received during the period beginning at the time the contract is entered into under this section and ending September 30, 2002.

(d) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section (other than subsection (e)) through the Commodity Credit Corporation.

(e) ADDITIONAL PAYMENTS.—

(1) IN GENERAL.—Subject to the availability of advanced appropriations, the Secretary may make payments to a producer described in subsection (a), in addition to the payments provided under subsection (c), to offset other estimated Federal Government outlays on frequently flooded land.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).

(f) LIMITATION ON PAYMENTS.—Amounts made available for production flexibility contracts under section 113 shall be reduced by an amount that is equal to the contract payments that producers forgo under subsection (b)(1) of this section.

[SEC. 386. [16 U.S.C. 2005b] CONSERVATION OF PRIVATE GRAZING LAND.^{386-1]}

[SEC. 387. [16 U.S.C. 3836a] WILDLIFE HABITAT INCENTIVES PROGRAM.^{387-1]}

[SEC. 388. [16 U.S.C. 3830 note] FARMLAND PROTECTION PROGRAM.^{388-1]}

SEC. 389. [16 U.S.C. 526 note] INTERIM MORATORIUM ON BYPASS FLOWS.

(a) MORATORIUM.—There shall be an 20-month moratorium on any Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use authorization permit.

³⁸⁶⁻¹ Sec. 386 repealed by sec. 2502(b) of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 267, May 13, 2002.

³⁸⁷⁻¹ Sec. 387 repealed by sec. 2502(b) of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 267, May 13, 2002.

³⁸⁸⁻¹ Sec. 388 repealed by sec. 2503(b)(1)(A) of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 269, May 13, 2002. Sec. 2503(b)(2) of that Act provides that “The amendment made by paragraph (1)(A) shall have no effect on any contract entered into under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note) that is in effect as of the date of enactment of this Act.”

- (b) LIMITATIONS.—Subsection (a) shall not affect—
- (1) obligations or authority of the Secretary of Agriculture to protect public health and safety; and
 - (2) obligations or authority under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or applicable State law.
- (c) RULES OF CONSTRUCTION.—
- (1) EXISTING NON-FEDERAL WATER RIGHTS.—Nothing in this section prevents or inhibits the exercise of the use and operation of existing non-Federal water rights on or above the National Forest land that require land use authorization permits from the Forest Service to access water supply facilities.
 - (2) RENEWAL OR REISSUANCE OF EXPIRING LAND USE AUTHORIZATION FOR DECREED WATER RIGHTS.—Nothing in this section prevents or inhibits the renewal or reissuance of expiring land use authorizations for decreed water rights. The Forest Service may extend, as needed, any expiring land use authorization for such time as is necessary to incorporate the results of the study authorized by subsection (d).
- (d) STUDY OF WATER RIGHTS ACROSS FEDERAL LANDS.—
- (1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, there shall be established a Water Rights Task Force to study the subjects described in paragraph (3).
 - (2) MEMBERSHIP.—The Task Force shall be composed of 7 members appointed as follows:
 - (A) 1 member shall be appointed by the Secretary of Agriculture.
 - (B) 2 members shall be appointed by the Speaker of the House of Representatives and 1 member shall be appointed by the Minority Leader of the House of Representatives.
 - (C) 2 members shall be appointed by the Majority Leader of the Senate and 1 member shall be appointed by the Minority Leader of the Senate.
 - (3) SUBJECTS TO BE STUDIED.—The Task Force shall study and make recommendations on—
 - (A) whether Federal water rights should be acquired for environmental protection on National Forest land;
 - (B) measures necessary to protect the free exercise of non-Federal water rights requiring easements and permits from the Forest Service;
 - (C) the protection of minimum instream flows for environmental and watershed management purposes on National Forest land through purchases or exchanges from willing sellers in accordance with State law;
 - (D) the effects of any of the recommendations made under this paragraph on existing State laws, regulations, and customs of water usage; and
 - (E) measures that would be useful in avoiding or resolving conflicts between the Forest Service's responsibilities for natural resource and environmental protection, the public interest, and the property rights and interests of water holders with special use permits for water facilities, including the study of the Federal acquisition of water rights, dispute resolution, mitigation, and compensation.

(4) FINAL REPORT.—As soon as practicable, but not later than 14 months, after the date of enactment of this Act, the Task Force shall provide the final report of the Task Force to—

- (A) the Secretary of Agriculture;
- (B) the Speaker of the House of Representatives;
- (C) the President pro tempore of the Senate;
- (D) the Chairman of the Committee on Agriculture of the House of Representatives;
- (E) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate;
- (F) the Chairman of the Committee on Resources of the House of Representatives; and
- (G) the Chairman of the Committee on Energy and Natural Resources of the Senate.

(5) AUTHORIZATION OF FUNDS.—The Secretary of Agriculture shall use funds made available for salaries and administrative expenses of the Department of Agriculture to carry out this subsection.

(e) EXTENSION FOR DELAY.—There shall be a day-for-day extension to the 20-month moratorium required by subsection (a) and a day-for-day extension to the report required by subsection (d)(4)—

(1) for every day of delay in implementing or establishing the Water Rights Task Force caused by a failure to nominate Task Force members by the Administration or by the Congress; or

(2) for every day of delay caused by a failure by the Secretary of Agriculture to identify adequate resources as determined by the Secretary of Agriculture to carry out the purposes of the Task Force.

SEC. 390. EVERGLADES ECOSYSTEM RESTORATION.

(a) IN GENERAL.—On July 1, 1996, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide \$200,000,000 to the Secretary of the Interior to carry out this section.

(b) ENTITLEMENT.—The Secretary of the Interior (referred to in this section as the “Secretary”)—

(1) shall be entitled to receive the funds made available under subsection (a);

(2) shall accept the funds; and

(3) shall use the funds to—

(A) conduct restoration activities in the Everglades ecosystem in South Florida, which shall include the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) fund resource protection and resource maintenance activities in the Everglades ecosystem.

(c) SAVINGS PROVISION.—Nothing in this subsection precludes the Secretary from transferring funds to the Army Corps of Engineers, the State of Florida, or the South Florida Water Management District to carry out subsection (b)(3).

(d) DEADLINE.—The Secretary shall use the funds made available under subsection (a) for restoration activities referred to in subsection (b)(3) not later than December 31, 1999.

(e) REPORT TO CONGRESS.—For each of calendar years 1996 through 1999, the Secretary shall submit an annual report to Congress describing all activities carried out under subsection (b)(3).

(f) SEPARATE AND ADDITIONAL EVERGLADES RESTORATION ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury a special account (to be known as the “Everglades Restoration Account”), which shall consist of such funds as may be deposited in the account under paragraph (2). The account shall be separate, and in addition to, funds deposited in the Treasury under subsection (a).

(2) SOURCE OF FUNDS FOR ACCOUNT.—

(A) PROCEEDS FROM SURPLUS PROPERTY.—

(i) IN GENERAL.—Subject to subparagraph (B), the Administrator shall deposit in the special account all funds received by the Administrator, on or after the date of enactment of this Act and before the date of enactment of the Water Resources Development Act of 2000, from the disposal pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) of surplus real property located in the State of Florida.

(ii) AVAILABILITY AND DISPOSITION OF FEDERAL LAND.—

(I) IDENTIFICATION.—Any Federal real property located in the State of Florida (excluding lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes) shall be identified for disposal or exchange under this subsection and shall be presumed available for purposes of this subsection unless the head of the agency controlling the property determines that there is a compelling program need for any property identified by the Secretary.

(II) AVAILABILITY.—Property identified by the Secretary for which there is no demonstrated compelling program need shall, not later than 90 days after a request by the Secretary, be reported to the Administrator and shall be made available to the Administrator who shall consider the property to be surplus property for purposes of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(III) PRIORITIZATION OF DISPOSITION.—The Administrator may prioritize the disposition of property made available under this subparagraph to permit the property to be sold as quickly as practicable in a manner that is consistent with the best interests of the Federal Government.

(B) LIMIT ON TOTAL AMOUNT OF DEPOSITS.—The total amount of funds deposited in the special account under subparagraph (A) shall not exceed \$100,000,000.

(C) EFFECT ON CLOSURE OF MILITARY INSTALLATIONS.—Nothing in this section alters the disposition of any proceeds arising from the disposal of real property pursuant to a base closure law.

(3) USE OF SPECIAL ACCOUNT.—Funds in the special account shall be available to the Secretary until expended under this paragraph. The Secretary shall use funds in the special ac-

count to assist in the restoration of the Everglades ecosystem in South Florida through—

(A) subject to paragraph (4), the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) the funding of resource protection and resource maintenance activities in the Everglades ecosystem.

(4) STATE CONTRIBUTION.—The Secretary may not expend any funds from the special account to acquire a parcel of real property, or an interest in a parcel of real property, under paragraph (3)(A) unless the Secretary obtains, or has previously obtained, a contribution from the State of Florida in an amount equal to not less than 50 percent of the appraised value of the parcel or interest to be acquired, as determined by the Secretary.

(5) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term “Administrator” means the Administrator of General Services.

(B) BASE CLOSURE LAW.—The term “base closure law” means each of the following:

(i) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(ii) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(iii) Section 2687 of title 10, United States Code.

(iv) Any other similar law enacted after the date of enactment of this Act.

(C) EVERGLADES ECOSYSTEM.—The term “Everglades ecosystem” means the Florida Everglades Restoration area that extends from the Kissimmee River basin to Florida Bay.

(D) EXCESS PROPERTY.—The term “excess property” has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(E) EXECUTIVE AGENCY.—The term “executive agency” has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(F) SPECIAL ACCOUNT.—The term “special account” means the Everglades Restoration Account established under paragraph (1).

(G) SURPLUS PROPERTY.—The term “surplus property” has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(g) REPORT TO DETERMINE THE FEASIBILITY OF ADDITIONAL LAND ACQUISITION AND RESTORATION ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall conduct an investigation to determine what, if any, unreserved and unappropriated Federal lands (or mineral interests in any such lands) under the administrative jurisdiction of the Secretary are suitable for disposal or exchange for the purpose of conducting restoration activities in the Everglades region.

(2) CONSERVATION LANDS.—No lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes shall be identified for disposal or exchange under this subsection.

(3) FLORIDA.—In carrying out this subsection, the Secretary shall, to the maximum extent practicable, determine which lands and mineral interests located within the State of Florida are suitable for disposal or exchange before making the determination for eligible lands or interests in other States.

(4) PUBLIC ACCESS.—In carrying out this subsection, the Secretary shall consider that in disposing of lands, the Secretary shall retain such interest in the lands as may be necessary to ensure that the general public is not precluded from reasonable access to the lands for purposes of fishing, hunting, or other recreational uses.

(5) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate describing the results of the investigation conducted under this subsection. The report shall describe the specific parcels identified under this subsection, establish the priorities for disposal or exchange among the parcels, and estimate the values of the parcels.

SEC. 391. [7 U.S.C. 5405] AGRICULTURAL AIR QUALITY RESEARCH OVERSIGHT.

(a) FINDINGS.—Congress finds that—

(1) various studies have alleged that agriculture is a source of PM-10 emissions;

(2) many of these studies have often been based on erroneous data;

(3) Federal research activities are currently being conducted by the Department of Agriculture to determine the true extent to which agricultural activities contribute to air pollution and to determine cost-effective ways in which the agricultural industry can reduce any pollution that exists; and

(4) any Federal policy recommendations that may be issued by any Federal agency to address air pollution problems related to agriculture or any other industrial activity should be based on sound scientific findings that are subject to adequate peer review and should take into account economic feasibility.

(b) PURPOSE.—The purpose of this section is to encourage the Secretary of Agriculture to continue to strengthen vital research efforts related to agricultural air quality.

(c) OVERSIGHT COORDINATION.—

(1) INTERGOVERNMENTAL COOPERATION.—The Secretary shall, to the maximum extent practicable with respect to the Department of Agriculture and other Federal departments and agencies, ensure intergovernmental cooperation in research activities related to agricultural air quality and avoid duplication of the activities.

(2) CORRECT DATA.—The Secretary shall, to the maximum extent practicable, ensure that the results of any research related to agricultural air quality conducted by Federal agencies not report erroneous data with respect to agricultural air quality.

(d) TASK FORCE.—

(1) ESTABLISHMENT.—The Chief of the National Resources Conservation Service shall establish a task force to address agricultural air quality issues.

(2) COMPOSITION.—The task force shall be comprised of employees of the Department of Agriculture, industry representatives, and other experts in the fields of agriculture and air quality.

(3) DUTIES.—The task force shall advise the Secretary with respect to the role of the Secretary for providing oversight and coordination related to agricultural air quality.