

COMMODITY CREDIT CORPORATION CHARTER ACT

[As Amended Through P.L. 108-358, October 22, 2004]

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LEGAL HISTORY OF COMMODITY CREDIT CORPORATION

The Commodity Credit Corporation was created on October 17, 1933, under the laws of the State of Delaware pursuant to Executive Order No. 6340, dated October 16, 1933, issued by virtue of the authority vested in the President by section 2(a) of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 195). The Act of January 31, 1935 (15 U.S.C. 713), directed that the Corporation should "continue until April 1, 1937, or such earlier date as may be fixed by the President by Executive Order, to be an agency of the United States." The Corporation was continued until June 30, 1948, as an agency of the United States by successive amendments to the Act of January 31, 1935. By section 401 of the President's reorganization plan No. 1 (5 U.S.C. Appendix), effective July 1, 1939, the Corporation was made a part of the United States Department of Agriculture, and its operations were placed under the supervision and control of the Secretary of Agriculture.

The Commodity Credit Corporation was originally capitalized for \$3,000,000 subscribed by the Secretary of Agriculture and the Governor of the Farm Credit Administration. The funds for such subscription were derived from the appropriation authorized by section 220 of the National Industrial Recovery Act (48 Stat. 210) and made by the Fourth Deficiency Act, fiscal year 1933 (48 Stat. 274). In accordance with the Act of April 10, 1936 (15 U.S.C. 713a), the Corporation's capitalization was increased to \$100,000,000, the additional \$97,000,000 of the Corporation's stock being acquired by the Reconstruction Finance Corporation. By section 3 of the Act of March 8, 1938 (15 U.S.C. 713a-3), the Secretary of Agriculture, the Governor of the Farm Credit Administration, and the Reconstruction Finance Corporation were directed to transfer the ownership of the stock of the Corporation to the United States. That section also provided that all rights of the United States arising out of the ownership of such stock should be exercised by the President of the United States or by such officers or agencies as he might designate. Executive Order No. 8219, issued August 7, 1939 (4 F.R. 3565), transferred to the Secretary of Agriculture the authority to exercise on behalf of the United States all rights arising out of the ownership of the stock of the Commodity Credit Corporation.

The Delaware charter of the Commodity Credit Corporation authorized the Corporation, among other things, to engage in buying, selling, lending, and other activities with respect to agricultural commodities, products thereof, and related facilities. These charter powers enabled the Corporation to engage in extensive operations for the purpose of increasing production, stabilizing prices, assuring adequate supplies, and facilitating the efficient distribution of agricultural commodities, foods, feeds, and fibers. Many of the Corporation's operations were carried out in response to specific congressional mandates. In carrying out its operations, the Corporation was also subject to certain specific limitations placed upon it by the Congress.

Section 304(b) of the Government Corporation Control Act (31 U.S.C. 9101 et seq.) required that wholly-owned Government corporations incorporated under State law be reincorporated by Act of the Congress in order to continue as agencies or instrumentalities of the United States after June 30, 1948. Accordingly, the Com-

modity Credit Corporation was incorporated as a Federal corporation by the Commodity Credit Corporation Charter Act, effective as of midnight, June 30, 1948. Pursuant to the Charter Act and by appropriate action of the boards of directors of the Delaware and the Federal corporations, all the assets, funds, property, and records of the Delaware corporation were transferred to the Federal corporation, and the rights and duties and liabilities of the Delaware corporation were assumed by the Federal corporation. The Charter Act also directed the dissolution of the Delaware corporation, and the Commodity Credit Corporation, a Delaware corporation, was dissolved under the laws of the State of Delaware, effective as of 9 a.m., September 15, 1948.

The Charter Act incorporated the Federal corporation for substantially the same purposes which the Delaware corporation had served and made applicable to the Federal corporation the statutes which had been applicable to the Delaware corporation.

COMMODITY CREDIT CORPORATION CHARTER ACT¹⁻¹

AN ACT

To provide a Federal Charter for the Commodity Credit Corporation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [15 U.S.C. 714 note] That this Act may be cited as the "Commodity Credit Corporation Charter Act."

Sec. 2. [15 U.S.C. 714] CREATION AND PURPOSES.—For the purpose of stabilizing, supporting, and protecting farm income and prices, of assisting in the maintenance of balanced and adequate supplies of agricultural commodities, products thereof, foods, feeds, and fibers (hereinafter collectively referred to as "agricultural commodities"), and of facilitating the orderly distribution of agricultural commodities, there is hereby created a body corporate to be known as Commodity Credit Corporation (hereinafter referred to as the "Corporation"), which shall be an agency and instrumentality of the United States, within the Department of Agriculture, subject to the general²⁻¹ supervision and direction of the Secretary of Agriculture (hereinafter referred to as the "Secretary").

SEC. 3. [15 U.S.C. 714a] OFFICE.—The Corporation may establish offices in such place or places as it may deem necessary or desirable in the conduct of its business.

SEC. 4. [15 U.S.C. 714b] GENERAL POWERS.—The Corporation—

(a) Shall have succession in its corporate name.

(b) May adopt, alter, and use a corporate seal, which shall be judicially noticed.

(c) May sue and be sued, but no attachment, injunction, garnishment or other similar process, mesne or final, shall be issued against the Corporation or its property. The district courts of the United States, including the district courts of the District of Columbia and of any Territory or possession, shall have exclusive original jurisdiction, without regard to the amount in controversy,⁴⁻¹ of all suits brought by or against the Corporation: *Provided*, That the Corporation may intervene in any court in any suit, action, or proceeding in which it has an interest. Any suit against the Corporation shall be brought in the District of Columbia, or in the district wherein the plaintiff resides or is engaged in business. No suit by or against the Corporation shall be allowed unless (1) it shall have been brought within six years after the right accrued on which suit is brought, or (2) in the event that the person bringing such suit shall have been under legal disability or beyond the seas at the time the right accrued, the suit shall have been brought within three years after the disability shall have ceased or within six years after the right accrued on which suit is brought, whichever period

¹⁻¹ P.L. 80-806, 62 Stat. 1070, June 29, 1948.

Sec. 515(h)(3)(B)(iv) of the Federal Crop Insurance Act (7 U.S.C. 1515(h)(3)(B)(iv)), permits the Secretary to disqualify a producer from receiving any benefit under this Act for a period of up to 5 years if the producer violates paragraph (1) or (2) of section 515(h) of that Act.

²⁻¹ Prior to amendment by the Act of June 7, 1949, P.L. 81-85, 63 Stat. 154, the balance of the sentence read, "direction and control of its Board of Directors."

⁴⁻¹ This phrase was added by the Act of June 7, 1949, P.L. 81-85, 63 Stat. 154, 156.

is longer. The defendant in any suit by or against the Corporation may plead, by way of set-off or counter claim, any cause of action, whether arising out of the same transaction or not, which would otherwise be barred by such limitation if the claim upon which the defendant's cause of action is based had not been barred prior to the date that the plaintiff's cause of action arose: *Provided*, That the defendant shall not be awarded a judgment on any such set-off or counterclaim for any amount in excess of the amount of the plaintiff's claim established in the suit.⁴⁻² All suits against the Corporation shall be tried by the court without a jury. Notwithstanding any other provision of this Act, the Federal Tort Claims Act (Public Law 601, Seventy-ninth Congress) shall be applicable to the Corporation. Any suit by or against the United States as the real party in interest based upon any claim by or against the Corporation shall be subject to the provisions of this subsection (c) to the same extent as though such suit were by or against the Corporation,⁴⁻³ except that (1) any such suit against the United States based upon any claim of the type enumerated in title 28, section 1491, of the United States Code, may be brought in the United States Claims Court,⁴⁻⁴ and (2) no such suit against the United States may be brought in a district court unless such suit might, without regard to the provisions of this Act, be brought in such court.

(d) May adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised.

(e) Shall have all the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from insolvent, deceased, or bankrupt debtors. The Corporation may assert such rights, privileges, and immunities in any suit, action, or proceeding.

(f) Shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Federal Government.

(g) May enter into and carry out such contracts or agreements as are necessary in the conduct of its business, except that obligations under all such contracts or agreements (other than reimbursable agreements under section 11) for equipment or services relating to automated data processing, information technologies, or related items (including telecommunications equipment and computer hardware and software) may not exceed \$170,000,000 in fiscal year 1996 and not more than \$193,000,000 in the 6-fiscal year period beginning on October 1, 1996, unless additional amounts for such contracts and agreements are provided in advance in appropriation Acts.⁴⁻⁵ State and local regulatory laws or rules shall not be applicable with respect to contracts or agreements of the Corporation or the parties thereto to the extent that such contracts or agreements provide that such laws or rules shall not be applicable, or to the ex-

⁴⁻²This and the preceding sentence were substituted by the Act of June 7, 1949, P.L. 81-85, 63 Stat. 156, for the sentence reading "No suit by or against the Corporation shall be allowed unless it shall have been brought within four years after the right accrued on which suit is brought."

⁴⁻³Balance of sentence added by P.L. 81-85, 63 Stat. 157, June 7, 1949.

⁴⁻⁴"Claims Court" substituted for "Court of Claims" by P.L. 97-164, 96 Stat. 49, April 2, 1982.

⁴⁻⁵Sec. 161(b)(1)(A) of the Agricultural Market Transition Act, P.L. 104-127, 110 Stat. 934, April 4, 1996, amended the first sentence of subsec. (g) by inserting " , except that" and all that follows through "appropriation Acts".

tent that such laws or rules are inconsistent with such contracts or agreements.

(h) May contract for the use, in accordance with the usual customs of trade and commerce, of plants and facilities for the physical handling, storage, processing, servicing, and transportation of the agricultural commodities subject to its control.⁴⁻⁶ The Corporation⁴⁻⁷ shall not have power to acquire real property or any interest therein except that it may (a) rent or lease office space necessary for the conduct of its business and (b) acquire real property or any interest therein for the purpose of providing storage adequate to carry out effectively and efficiently any of the Corporation's programs, or of securing or discharging obligations owing to the Corporation, or of otherwise protecting the financial interests of the Corporation: *Provided*, That the authority contained in this subsection (h) shall not be utilized by the Corporation for the purpose of acquiring real property, or any interest therein, in order to provide storage facilities for any commodity unless the Corporation determines that existing privately owned storage facilities for such commodity in the area concerned are not adequate: *Provided further*, That no refrigerated cold storage facilities shall be constructed or purchased except with funds specially provided by Congress for that purpose: *And provided further*, That any contract entered into by the Corporation for the use of a storage facility shall provide at least that (1) the rental rate charged for an extended term in excess of one year shall be at an annual rate less than that which is charged for a one-year contract, (2) any obligation of the Corporation to pay for the use of any space in a facility shall be relieved to the extent that the Corporation does not use the space and payment is made by another person for the use of such space, and (3) if the Corporation determines that it no longer needs the space reserved in the facility, the Corporation may be relieved for the remaining term of the contract, of its obligations to an extent and in a manner that will provide significant savings to the Corporation while permitting the owner of the facility reasonable time to lease such space to another person:⁴⁻⁸ *And provided further*, That nothing contained in this subsection (h) shall limit the duty of the Corporation, to the maximum extent practicable consistent with the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business, to utilize the usual and customary channels, facilities, and arrangements of trade and commerce in the warehousing of commodities: *And provided further*,⁴⁻⁹ That to encourage the storage of grain on farms, where it can be stored at the lowest cost, the Corporation may make loans to grain growers needing storage facilities when such growers shall apply to the Corporation for financing the construction or purchase of suitable storage, and these loans shall be deducted from the proceeds of price support loans or purchase agreements made between the Corporation

⁴⁻⁶The balance of subsection (h) up to the last proviso, except for the fifth proviso and the third sentence, was substituted for previous language by the Act of June 7, 1949, P.L. 81-85, 63 Stat. 154.

⁴⁻⁷Sec. 161(b)(1)(B) of the Agricultural Market Transition Act, P.L. 104-127, 110 Stat. 934, April 4, 1996 amended subsec. (h) by striking "shall have power to acquire personal property necessary to the conduct of its business but".

⁴⁻⁸This proviso was added by sec. 1761 of the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1651, Dec. 23, 1985.

⁴⁻⁹Sec. 151, P.L. 97-35, 95 Stat. 370, Aug. 13, 1981, substituted "may make loans" for "shall make loans". Sec. 1606 of the Agriculture and Food Act of 1981, P.L. 97-98, 95 Stat. 1347, Dec. 22, 1981, added the exception at the end of this proviso.

and the growers, except that the Secretary shall make such loans in areas in which the Secretary determines that there is a deficiency of such storage:⁴⁻¹⁰ To encourage the alleviation of natural resource conservation problems that reduce the productive capacity of the Nation's land and water resources or that cause degradation of environmental quality, the Corporation may, beginning with enactment of the Agriculture and Food Act of 1981, make loans to any agricultural producer for those natural resource conservation and environmental enhancement measures that are recommended by the applicable county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and are included in the producer's conservation plan approved by the local soil and water conservation district; such loans shall be for a period not to exceed ten years at a rate of interest based upon the rate of interest charged the Corporation by the United States Treasury; the Corporation may make loans to any one producer in any fiscal year in an amount not to exceed \$25,000; loans up to \$10,000 in amount may be unsecured and loans in excess of \$10,000 shall be secured; and the total of such unsecured and secured loans made in each fiscal year shall not exceed \$200,000,000: *Provided*, That the authority provided by this sentence to make loans shall be effective only to the extent and in such amounts as may be provided for in prior appropriation Acts.⁴⁻¹¹ Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the maximum extent practicable, in consultation with the Secretary of State, and upon terms and conditions prescribed or approved by the Secretary of Agriculture, accept strategic and critical materials produced abroad in exchange for agricultural commodities acquired by the Corporation.⁴⁻¹² Insofar as practicable, in effecting such exchange of goods, the Secretary shall: (1) use normal commercial trade channels; (2) take action to avoid displacing usual marketings of United States agricultural commodities and the products thereof; (3) take reasonable precautions to prevent the resale or transshipment to other countries, or use for other than domestic use in the importing country, of agricultural commodities used for such exchange; and (4) give priority to commodities easily storable and those which serve as prime incentive goods to stimulate production of critical and strategic materials.⁴⁻¹³ The Corporation may solicit bids from, and utilize, private trading firms to effect such exchange of goods. The determination of the quantities and qualities of such materials which are desirable for stockpiling and the determination of which materials are strategic and critical shall be made in the manner prescribed by section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.). Strategic and critical

⁴⁻¹⁰ A fifth proviso, effective only with respect to fiscal years 1978 through 1981, has been omitted. For text, see p. 19-5 of Agricultural Handbook No. 476 of Jan. 1, 1981. Also, see Sec. 417 of the Agricultural Act of 1949 relating to loans by Bank for Cooperatives to cooperative associations for storage facilities utilized by the Commodity Credit Corporation.

⁴⁻¹¹ This third sentence including the proviso was added by Sec. 1520 of the Agriculture and Food Act of 1981, P.L. 97-98, 95 Stat. 1335, Dec. 22, 1981.

⁴⁻¹² Sec. 1167(b) of the Food Security Act of 1985, P.L. 98-198, 99 Stat. 1503, Dec. 23, 1985, deleted "is authorized" and inserted in lieu thereof "shall to the maximum extent practicable, in consultation with the Secretary of State, and" and struck out "to" after "Agriculture,".

⁴⁻¹³ Sec. 1167(b) of the Food Security Act of 1985, P.L. 98-198, 99 Stat. 1503, Dec. 23, 1985, deleted "normal commercial trade channels shall be utilized and priority shall be given" and substituted in lieu thereof the material beginning with "the Secretary" through "priority" in the fifth sentence and added the next sentence.

materials acquired by Commodity Credit Corporation in exchange for agricultural commodities shall, to the extent approved by the President⁴⁻¹⁴ be transferred to the stock pile provided for by the Strategic and Critical Materials Stock Piling Act; and in the same fiscal year such materials are transferred to the stock pile the Commodity Credit Corporation shall be reimbursed for the strategic and critical materials so transferred to the stock pile from the funds made available for the purpose of the Strategic and Critical Materials Stock Piling Act, in an amount equal to the fair market value, as determined by the Secretary of the Treasury,⁴⁻¹⁵ of the material transferred to the stock pile.⁴⁻¹⁶ If the volume of petroleum products (including crude oil) stored in the Strategic Petroleum Reserve is less than the level prescribed under section 154 of the Energy Policy and Conservation Act (42 U.S.C. 6234), the Corporation shall, to the maximum extent practicable and with the approval of the Secretary of Agriculture, make available annually to the Secretary of Energy, upon the request of the Secretary of Energy, a quantity of agricultural products owned by the Corporation with a market value at the time of such request of at least \$300,000,000 for use by the Secretary of Energy in acquiring petroleum products (including crude oil) produced abroad for placement in the Strategic Petroleum Reserve through an exchange of such agricultural products. The terms and conditions of each such exchange, including provisions of full reimbursement to the Commodity Credit Corporation, shall be determined by the Secretary of Energy and the Secretary of Agriculture.⁴⁻¹⁷ Nothing contained herein shall limit the authority of the Commodity Credit Corporation to acquire, hold, or dispose of such quantity of strategic and critical materials as it deems advisable in carrying out its functions and protecting its assets: *Provided*,⁴⁻¹⁸ That, notwithstanding any other provision of law, where a grain storage facility owned by the Corporation is not needed by the Corporation and, upon being offered for sale no person offers to pay the minimum price set by the Corporation for such facility for use in connection with storage or handling of agricultural commodities, then the Corporation may, without declaring such facility to be excess property, sell it by bids at not less than such minimum price to any public or private nonprofit agency or organization for use for the purposes of such agency or organization. This provision shall apply also to facilities which on the effective date of this Act have been declared excess to the needs of the Commodity Credit Corporation but have not been claimed by any other Government agency, or surplus to the needs of the Government but not disposed of pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended.

(i) May borrow money subject to any provision of law applicable to the Corporation: *Provided*, That the total of all money borrowed by the Corporation, other than trust deposits and advances received

⁴⁻¹⁴ "3" substituted for "2", Code citation substituted for old Stat. citation, an "President" substituted for "Munitions Board of the National Military Establishment" by Sec. 3 of the Strategic and Critical Materials Stock Piling Act, P.L. 96-41, 93 Stat. 325, July 30, 1979.

⁴⁻¹⁵ This function was transferred to the Administrator of General Services, by section 102(a) of the Act of June 30, 1949, P.L. 81-152, 63 Stat. 380, 40 U.S.C. 752(a).

⁴⁻¹⁶ Sec. 1167(b) of the Food Security Act of 1985, P.L. 99-198, 90 Stat. 1503, Dec. 23, 1985, deleted "when" and inserted in lieu thereof "in the same fiscal year such materials are".

⁴⁻¹⁷ The ninth and tenth sentences were added by sec. 1167(b) of the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1503, Dec. 23, 1985.

⁴⁻¹⁸ This proviso and the last sentence of this section were added by the Act of November 5, 1966, P.L. 89-758, 80 Stat. 1307.

on sales, shall not at any time exceed in the aggregate \$30,000,000,000.⁴⁻¹⁹ The Corporation shall at all times reserve a sufficient amount of its authorized borrowing power which, together with other funds available to the Corporation, will enable it to purchase, in accordance with its contracts with lending agencies, notes, or other obligations evidencing loans made by such agencies under the Corporation's programs.

(j) Shall determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid.

(k) Shall have authority to make final and conclusive settlement and adjustment of any claims by or against the Corporation or the accounts of its fiscal officers.

(l) May make such loans and advances of its funds as are necessary in the conduct of its business.

(m) Shall have such powers as may be necessary or appropriate for the exercise of the powers specifically vested in the Corporation, and all such incidental powers as are customary in corporations generally; but any research financed by the Corporation shall relate to the conservation or disposal of commodities owned or controlled by the Corporation and shall be conducted in collaboration with research agencies of the Department of Agriculture. Notwithstanding any other provision of this Act, the Corporation may, in the exercise of its power to remove and dispose of surplus agricultural commodities, export, or cause to be exported, not to exceed such amounts of commodities owned by the Corporation as will enable the Corporation to finance research and development of external combustion engines using fuel other than that derived from petroleum and petroleum products. The total value of commodities exported annually for the purposes of the research authorized by the preceding sentence may not exceed \$30,000,000.⁴⁻²⁰

SEC. 5.⁵⁻¹ [15 U.S.C. 714c] SPECIFIC POWERS.—In the fulfillment of its purposes and in carrying out its annual budget programs submitted to and approved by the Congress pursuant to Chapter 91 of Title 31,⁵⁻² the Corporation is authorized to use its general powers only to—

(a) Support the prices of agricultural commodities (other than tobacco) through loans, purchases, payments, and other operations.

(b) Make available materials and facilities required in connection with the production and marketing of agricultural commodities (other than tobacco).

⁴⁻¹⁹Borrowing power increased from \$4,750,000,000 to \$6,750,000,000 by the Act of June 28, 1950, P.L. 81-579, 64 Stat. 261; to \$8,500,000,000 by the Act of March 20, 1954, P.L. 83-312, 68 Stat. 30; to \$10,000,000,000 by the Act of August 1, 1954, P.L. 83-1047, 68 Stat. 1047; to \$12,000,000,000 by the Act of August 11, 1955, P.L. 84-344, 69 Stat. 634; and to \$14,500,000,000 by the Act of August 1, 1956, P.L. 84-864, 70 Stat. 783. Sec. 301 of the Emergency Agricultural Act of 1978, P.L. 95-279, 92 Stat. 242, May 15, 1978, increased the borrowing authority by \$10,500,000,000 to \$25,000,000,000 (effective Oct. 1, 1978) but such increase was effective only to the extent provided for in appropriation Acts. The \$10,500,000,000 increase was appropriated to CCC without fiscal year limitations in two appropriation Acts as follows: \$5,500,000,000 by the 1979 Agriculture Appropriation Act, P.L. 95-448, 92 Stat. 1081, Oct. 11, 1978, and \$5,000,000,000 by the Supplemental Appropriations Act, 1982, P.L. 97-257, 96 Stat. 818, Sept. 10, 1982. The Joint Res. of Dec. 22, 1987, P.L. 100-202, 101 Stat. 1329-336, substituted "\$20,000,000,000" for "\$25,000,000,000".

⁴⁻²⁰Sec. 11 of P.L. 99-260, 100 Stat. 52, March 20, 1986, added the last two sentences.

⁵⁻¹Effective beginning with the 2005 crop of each kind of tobacco, sec. 612(d) of P.L. 108-357, 108 Stat. 1524, Oct. 22, 2004, amended this sec. by inserting "(other than tobacco)" after "agricultural commodities" each place it appears.

⁵⁻²"Chapter 91 of Title 31" was substituted for "the Government Corporation Control Act (31 U.S.C. 841-871)" under authority of P.L. 97-258, 96 Stat. 1067, Sept. 13, 1982.

(c) Procure agricultural commodities (other than tobacco) for sale to other Government agencies, foreign governments, and domestic, foreign, or international relief or rehabilitation agencies, and to meet domestic requirements.

(d) Remove and dispose of or aid in the removal or disposition of surplus agricultural commodities (other than tobacco).

(e) Increase the domestic consumption of agricultural commodities (other than tobacco) by expanding or aiding in the expansion of domestic markets or by developing or aiding in the development of new and additional markets, marketing facilities, and uses for such commodities.

(f) Export or cause to be exported, or aid in the development of foreign markets for, agricultural commodities (other than tobacco) (including fish and fish products, without regard to whether such fish are harvested in aquacultural operations).⁵⁻³

(g)⁵⁻⁴ Carry out conservation or environmental programs authorized by law.

(h) Carry out such other operations as the Congress may specifically authorize or provide for.

In the Corporation's purchasing and selling operations with respect to agricultural commodities (other than tobacco) (except sales to other Government agencies), and in the warehousing, transporting, processing, or handling of agricultural commodities (other than tobacco), the Corporation shall, to the maximum extent practicable consistent with the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business, utilize the usual and customary channels, facilities, and arrangements of trade and commerce (including, at the option of the Corporation, the use of private sector entities).⁵⁻⁵

SEC. 6. [15 U.S.C. 714d] EXISTING STATUTES APPLICABLE TO THE CORPORATION.—The Federal statutes applicable to Commodity Credit Corporation, a Delaware corporation, shall be applicable to the Corporation. Commodity Credit Corporation, a Delaware corporation, shall cease to be an agency of the United States as provided in section 7(a) of the Act of January 31, 1935, as amended (15 U.S.C., 1940 edition, Supp. V, 713(a)).

SEC. 7. [15 U.S.C. 714e] CAPITAL STOCK.—The Corporation shall have a capital stock of \$100,000,000 which shall be subscribed by the United States. Such subscription shall be deemed to be fully paid by the transfer of assets to the Corporation pursuant to section 16 of this Act. The Corporation shall pay interest to the United States Treasury on the amount of its capital stock, and on the amount of the obligations of the Corporation purchased by the Secretary of the Treasury pursuant to the Act of March 8, 1938 (U.S.C., title 15, sec. 713a-4), as amended, at such rates as may be determined by the Secretary of the Treasury to be appropriate in

⁵⁻³The language appearing in the parenthesis was added by Sec. 405(a) of P.L. 98-623, 98 Stat. 3394, Nov. 8, 1984. Sec. 405(d) of P.L. 98-623 provides that "For purposes of Section 135 of the Omnibus Budget Reconciliation Act of 1982 (7 U.S.C. 612c note), the amendments made by this section shall be considered to have taken effect before the date of the enactment of that Act."

⁵⁻⁴Effective January 1, 1997, sec. 381 of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104-127, 110 Stat. 1016, April 4, 1996, amended this sec. by redesignating former subsec. (g) as subsec. (h) and by inserting new subsec. (g).

⁵⁻⁵Sec. 1609 of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 218, May 13, 2002, amended this sentence by inserting before the period at the end the following: "(including, at the option of the Corporation, the use of private sector entities)".

view of the terms for which such amounts are made available to the Corporation.

SEC. 8. [15 U.S.C. 714f] FUNDS.—The Corporation is authorized to use in the conduct of its business all its funds and other assets, including capital and net earnings therefrom, and all funds and other assets, which have been or may hereafter be transferred or allocated to, borrowed by, or otherwise acquired by it.

SEC. 9.⁹⁻¹ [15 U.S.C. 714g] DIRECTORS, ADVISORY BOARD.—(a) The management of the Corporation shall be vested in a Board of Directors (hereinafter referred to as the "Board"), subject to the general supervision and direction of the Secretary. The Secretary shall be an ex officio director and shall serve as Chairman of the Board. The Board shall consist of seven⁹⁻² members (in addition to the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate. In addition to their duties as members of the Board, such appointed members shall perform such other duties as may be prescribed by the Secretary. Each appointed member of the Board shall receive compensation at such rate not in excess of the maximum then payable under the Classification Act of 1923, as amended,⁹⁻³ as may be fixed by the Secretary, except that any such member who holds another office or position under the Federal Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this section. A majority of the directors shall constitute a quorum of the Board and action shall be taken only by a majority vote of those present.⁹⁻⁴

(b) In addition to the Board of Directors there shall be an advisory board reflecting broad agricultural and business experience in its membership and consisting of five members who shall be appointed by the President, and who shall serve at the pleasure of the President. Not more than three of such members shall belong to the same political party. The advisory board shall meet at the call of the Secretary, who shall require it to meet not less often than once each ninety days; shall survey the general policies of the Corporation, including its policies in connection with the purchase, storage, and sale of commodities, and the operation of lending and price-support programs; and shall advise the Secretary with respect thereto. Members of the advisory board shall receive for their services as members compensation of not to exceed \$50 per diem when actually engaged in the performance of their duties as such, together with their necessary traveling expenses while going to and coming from meetings.

SEC. 10.¹⁰⁻¹ [15 U.S.C. 714h] PERSONNEL OF CORPORATION.—The Secretary shall appoint such officers and employees as may be necessary for the conduct of business of the Corporation, define their authority and duties, delegate to them such of the powers

⁹⁻¹ Secs. 9 and 10 were revised by P.L. 81-85, 63 Stat. 154, June 7, 1949.

⁹⁻² Changed from six by P.L. 94-561, 90 Stat. 2643, Oct. 19, 1976.

⁹⁻³ This reference is to be considered to mean the Classification Act of 1949, P.L. 429, 81st Cong., 63 Stat. 954, under Sec. 1106 of that Act.

⁹⁻⁴ Meetings are subject to the Government in the Sunshine Act, P.L. 94-409, 90 Stat. 1241, 1242, Sept. 13, 1976.

¹⁰⁻¹ Prior to amendment by the Act of June 6, 1972, P.L. 92-310, 86 Stat. 206, this sentence continued: ". . . require that such of them as he may designate be bonded and fix the penalties therefor." The amendment also deleted the second sentence of section 10 which contained the following language: "The Corporation may pay the premium of any bond or bonds."

vested in the Corporation as he may determine. With the exception of experts, appointments shall be made pursuant to the civil service laws and the Classification Act of 1923, as amended (5 U.S.C., 1946 edition, 661).¹⁰⁻²

SEC. 11. [15 U.S.C. 714i] COOPERATION WITH OTHER GOVERNMENT AGENCIES.—The Corporation may, with the consent of the agency concerned, accept and utilize, on a compensated or uncompensated basis, the officers, employees, services, facilities, and information of any agency of the Federal Government, including any bureau, office, administration, or other agency of the Department of Agriculture, and of any State, the District of Columbia, any territory or possession, or any political subdivision thereof. The Corporation may allot to any bureau, office, administration, or other agency of the Department of Agriculture or transfer to such other agencies as it may request to assist it in the conduct of its business any of the funds available to it for administrative expenses. The personnel and facilities of the Corporation may, with the consent of the Corporation, be utilized on a reimbursable basis by any agency of the Federal Government, including any bureau, office, administration, or other agency of the Department of Agriculture, in the performance of any part or all of the functions of such agency. After September 30, 1996, the total amount of all allotments and fund transfers from the Corporation under this section (including allotments and transfers for automated data processing or information resource management activities) for a fiscal year may not exceed the total amount of the allotments and transfers made under this section in fiscal year 1995.¹¹⁻¹

SEC. 12. [15 U.S.C. 714j] UTILIZATION OF ASSOCIATIONS AND TRADE FACILITIES.—The Corporation may, in the conduct of its business, utilize on a contract or fee basis, committees or associations of producers, producer-owned and producer-controlled cooperative associations, and trade facilities.

SEC. 13. [15 U.S.C. 714k] RECORDS; ANNUAL REPORT.—The Corporation shall at all times maintain complete and accurate books of account and shall file annually with the Secretary of Agriculture a complete report as to the business of the Corporation, a copy of which shall be forwarded by the Secretary of Agriculture to the President for transmission to the Congress. In addition to the annual report, the Corporation shall submit to Congress on a quarterly basis an itemized report of all expenditures over \$10,000 made under section 5 or 11 during the period covered by the report, including expenditures in the form of allotments or fund transfers to other agencies and departments of the Federal Government.¹³⁻¹

SEC. 14. [15 U.S.C. 714l] INTEREST OF MEMBERS OF THE CONGRESS.—The provisions of section 1 of the Act of February 27, 1877, as amended (41 U.S.C., 1940 edition, 22), shall apply to all contracts or agreements of the Corporation, except contracts or agreements of a kind which the Corporation may enter into with farmers participating in a program of the Corporation.

SEC. 15. [15 U.S.C. 714m] CRIMES AND OFFENSES.—

¹⁰⁻² See footnote 4-17.

¹¹⁻¹ The last sentence was added by sec. 161(b)(2) of the Agricultural Market Transition Act, P.L. 104-127, 110 Stat. 934, April 4, 1996.

¹³⁻¹ The last sentence was added by sec. 161(b)(3) of the Agricultural Market Transition Act, P.L. 104-127, 110 Stat. 934, April 4, 1996.

FALSE STATEMENTS; OVERVALUATION OF SECURITIES

(a) Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of influencing in any way the action of the Corporation, or for the purpose of obtaining for himself or another, money, property, or anything of value, under this Act, or under any other Act applicable to the Corporation, shall, upon conviction thereof, be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

EMBEZZLEMENT, AND SO FORTH; FALSE ENTRIES; FRAUDULENT ISSUE OF OBLIGATIONS OF CORPORATION

(b) Whoever, being connected in any capacity with the Corporation or any of its programs, (i) embezzles, abstracts, purloins, or willfully misapplies any money, funds, securities, or other things of value, whether belonging to the Corporation or pledged, or otherwise entrusted to it; or (ii) with intent to defraud the Corporation or any other body, politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation, makes any false entry in any book, report, or statement of, or to, the Corporation, or draws any order, or issues, puts forth or assigns any note or other obligation or draft, mortgage, judgment, or decree thereof; or (iii) with intent to defraud the Corporation, participates or shares in, or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of the Corporation, shall, upon conviction thereof, be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

LARCENY; CONVERSION OF PROPERTY

(c) Whoever shall willfully steal, conceal, remove, dispose of, or convert to his own use or to that of another any property owned or held by, or mortgaged or pledged to, the Corporation, or any property mortgaged or pledged as security for any promissory note, or other evidence of indebtedness, which the Corporation has guaranteed or is obligated to purchase upon tender, shall, upon conviction thereof, if such property be of any amount or value in excess of \$500, be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both, and, if such property be of an amount or value of \$500 or less, be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both.¹⁵⁻¹

CONSPIRACY TO COMMIT OFFENSE

(d) Whoever conspires with another to accomplish any of the acts made unlawful by the preceding provisions of this section shall, upon conviction thereof, be subject to the same fine or imprisonment, or both, as is applicable in the case of conviction for doing such unlawful acts.

GENERAL STATUTES APPLICABLE

(e) All the general penal statutes relating to crimes and offenses against the United States shall apply with respect to the

¹⁵⁻¹ Substituted for original provisions of this subsection by the Act of August 1, 1956, P.L. 84-864, 70 Stat. 783.

Corporation, its property, money, contracts and agreements, employees, and operations: *Provided*, That such general penal statutes shall not apply to the extent that they relate to crimes and offenses punishable under subsections (a), (b), (c), and (d) of this section: *Provided further*, That sections 114 and 115 of the Act of March 4, 1909, as amended (18 U.S.C., 1940 edition, 204, 205),¹⁵⁻² shall not apply to contracts or agreements of a kind which the Corporation may enter into with farmers participating in a program of the Corporation.

USE OF WORDS "COMMODITY CREDIT CORPORATION"

(f)¹⁵⁻³ No individual, association, partnership, or corporation shall use the words "Commodity Credit Corporation or any combination of the same, as the name or a part thereof under which he or it shall do or purport to do business. Every individual, partnership, association, or corporation violating this prohibition shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both.

SEC. 16. [15 U.S.C. 714n] TRANSFER OF ASSETS OF COMMODITY CREDIT CORPORATION, A DELAWARE CORPORATION.—The assets, funds, property, and records of Commodity Credit Corporation, a Delaware corporation, are hereby transferred to the Corporation. The rights, privileges, and powers, and the duties and liabilities of Commodity Credit Corporation, a Delaware corporation, in respect to any contract, agreement, loan, account, or other obligation shall become the rights, privileges, and powers, and the duties and liabilities, respectively, of the Corporation. The enforceable claims of or against Commodity Credit Corporation, a Delaware corporation, shall become the claims of or against, and may be enforced by or against, the Corporation: *Provided*, That nothing in this Act shall limit or extend any period of limitation otherwise applicable to such claims against the Corporation.

SEC. 17. [15 U.S.C. 714o] DISSOLUTION OF DELAWARE CORPORATION.—The Secretary of Agriculture, representing the United States as the sole owner of the capital stock of Commodity Credit Corporation, a Delaware corporation, is hereby authorized and directed to institute or cause to be instituted such proceedings as are required for the dissolution of said Corporation under the laws of the State of Delaware.¹⁷⁻¹ The costs of such dissolution of said Corporation shall be borne by the Corporation.

SEC. 18. [15 U.S.C. 714 note] EFFECTIVE DATE.—This Act shall take effect as of midnight June 30, 1948.

SEC. 19.¹⁹⁻¹ [15 U.S.C. 714p] RELEASE OF INNOCENT PURCHASERS OF CONVERTED GOODS.—A buyer in the ordinary course of business of fungible goods heretofore or hereafter sold and physically delivered by a warehouseman or other dealer who was regularly engaged in the business of buying and selling such goods shall take or be deemed to have taken such goods free of any claim, existing or hereafter arising, by Commodity Credit Corporation, based

¹⁵⁻² The Act of March 4, 1909, as amended, was repealed and superseded by the Act of June 25, 1948. P.L. 80-772, 62 Stat. 683 *et seq.* Sections 204 and 205 were superseded by sections 431 and 482 of title 18, U.S.C.

¹⁵⁻³ Subsec. (f) added by the Act of June 7, 1949, P.L. 81-85, 63 Stat. 154, 157.

¹⁷⁻¹ The Delaware corporation was dissolved under the laws of the State of Delaware, effective 9 a.m. September 15, 1948.

¹⁹⁻¹ Section 19 added by the Act of May 23, 1955, P.L. 84-43, 69 Stat. 65.

on the want of authority in the seller to sell such goods, provided the buyer purchased such goods for value in good faith and did not know or have reason to know of any defect in the seller's authority to sell such goods. To be entitled to relief under this section a buyer must assert as an affirmative defense and establish by a preponderance of the evidence the facts necessary to entitle him to such relief.

APPENDIX**Food, Agriculture, Conservation, and Trade Act of 1990****SEC. 1124. [7 U.S.C. 1445e note] COMPARABILITY OF STORAGE PAYMENTS.¹**

In making storage payments to producers under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) and to commercial warehousemen in accordance with the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), the Commodity Credit Corporation and the Secretary of Agriculture shall, to the extent practicable, ensure that the rates of the storage payments made to producers are equivalent to average rates paid for commercial storage, taking into account the current demand for storage for commodities, efficiency, location, regulatory compliance costs, bonding requirements, and impact of user fees as determined by the Secretary, except that the rates paid to producers and commercial warehouse shall be established at rates that will result in no increase in current or projected combined outlays of the Commodity Credit Corporation for the storage payments made to producers and commercial warehouse as a result of the adjustment of storage rates under this section.

Food and Agriculture Act of 1962**[MINIMUM ACQUISITION OF STOCKS BY COMMODITY CREDIT CORPORATION]**

SEC. 402.² [15 U.S.C. 713a-13] Congress hereby reconfirms its long-standing policy of favoring the use by governmental agencies of the usual and customary channels, facilities, and arrangements of trade and commerce, and directs the Secretary of Agriculture and the Commodity Credit Corporation to the maximum extent practicable to adopt policies and procedures designed to minimize the acquisition of stocks by the Commodity Credit Corporation, to encourage orderly marketing of farm commodities through private competitive trade channels, both cooperative and noncooperative, and to obtain maximum returns in the marketplace for producers and for the Commodity Credit Corporation.

¹P.L. 101-624, 104 Stat. 3506, Nov. 28, 1990.

²P.L. 87-703, 76 Stat. 632, Sept. 25, 1962.