

AVAILABILITY OF FUNDS

Pub. L. 109-97, title VII, §722, Nov. 10, 2005, 119 Stat. 2152, as amended by Pub. L. 110-246, title III, §3001(c), June 18, 2008, 122 Stat. 1821, provided that: “Hereafter, notwithstanding section 412 of the Food for Peace Act (7 U.S.C. 1736f), any balances available to carry out title III of such Act [7 U.S.C. 1727 et seq.] as of the date of enactment of this Act [Nov. 10, 2005], and any recoveries and reimbursements that become available to carry out title III of such Act, may be used to carry out title II of such Act [7 U.S.C. 1721 et seq.]”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108-447, div. A, title VII, §724, Dec. 8, 2004, 118 Stat. 2841.

Pub. L. 108-199, div. A, title VII, §724, Jan. 23, 2004, 118 Stat. 34.

Pub. L. 108-7, div. A, title VII, §727, Feb. 20, 2003, 117 Stat. 42.

Pub. L. 107-76, title VII, §730, Nov. 28, 2001, 115 Stat. 736.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) of this section delegated to Director of the Office of Management and Budget by section 4(e) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

§ 1736f-1. Establishment of commodity trust**(a) In general**

To provide for a trust solely to meet emergency humanitarian food needs in developing countries, the Secretary of Agriculture (referred to in this section as the “Secretary”) shall establish and maintain a trust of wheat, rice, corn, or sorghum, any combination of the commodities, or funds for use as described in subsection (c).

(b) Commodities or funds in trust**(1) In general**

The trust established under this section shall consist of—

(A) wheat in the reserve established under the Food Security Wheat Reserve Act of 1980 as of April 4, 1996;

(B) wheat, rice, corn, and sorghum (referred to in this section as “eligible commodities”) acquired in accordance with paragraph (2) to replenish eligible commodities released from the trust, including wheat to replenish wheat released from the reserve established under the Food Security Wheat Reserve Act of 1980 but not replenished as of April 4, 1996;

(C) such rice, corn, and sorghum as the Secretary may, at such time and in such manner as the Secretary determines appropriate, acquire as a result of exchanging an equivalent value of wheat in the trust established under this section; and

(D) funds made available—

(i) under paragraph (2)(B);

(ii) as a result of an exchange of any commodity held in the trust for an equivalent amount of funds from the market, if the Secretary determines that such a sale of the commodity on the market will not unduly disrupt domestic markets; or

(iii) to maximize the value of the trust, in accordance with subsection (d)(3).

(2) Replenishment of trust**(A) In general**

Subject to subsection (h), commodities of equivalent value to eligible commodities in the trust established under this section may be acquired—

(i) through purchases—

(I) from producers; or

(II) in the market, if the Secretary determines that the purchases will not unduly disrupt the market; or

(ii) by designation by the Secretary of stocks of eligible commodities of the Commodity Credit Corporation.

(B) Funds

Any funds used to acquire eligible commodities through purchases from producers or in the market to replenish the trust shall be derived—

(i) with respect to fiscal years 2000 through 2023 from funds made available to carry out the Food for Peace Act (7 U.S.C. 1691 et seq.) that are used to repay or reimburse the Commodity Credit Corporation for the release of eligible commodities under subsections (c)(1) and (f)(2), except that, of such funds, not more than \$20,000,000 may be expended for this purpose in each of the fiscal years 2000 through 2023;

(ii) from funds authorized for that use by an appropriations Act; or

(iii) from funds accrued through the management of the trust under subsection (d).

(c) Release of eligible commodities**(1) Releases for emergency assistance****(A) Definition of emergency****(i) In general**

In this paragraph, the term “emergency” means an urgent situation—

(I) in which there is clear evidence that an event or series of events described in clause (ii) has occurred—

(aa) that causes human suffering; and

(bb) for which a government concerned has not chosen, or has not the means, to remedy; or

(II) created by a demonstrably abnormal event or series of events that produces dislocation in the lives of residents of a country or region of a country on an exceptional scale.

(ii) Event or series of events

An event or series of events referred to in clause (i) includes 1 or more of—

(I) a sudden calamity, such as an earthquake, flood, locust infestation, or similar unforeseen disaster;

(II) a human-made emergency resulting in—

(aa) a significant influx of refugees;

(bb) the internal displacement of populations; or

(cc) the suffering of otherwise affected populations;

(III) food scarcity conditions caused by slow-onset events, such as drought, crop failure, pest infestation, and disease, that result in an erosion of the ability of communities and vulnerable populations to meet food needs; and

(IV) severe food access or availability conditions resulting from sudden economic shocks, market failure, or economic collapse, that result in an erosion of the ability of communities and vulnerable populations to meet food needs.

(B) Releases

(i) In general

Any funds or commodities held in the trust may be released to provide food, and cover any associated costs, under title II of the Food for Peace Act (7 U.S.C. 1721 et seq.)—

(I) to assist in averting an emergency, including during the period immediately preceding the emergency;

(II) to respond to an emergency; or

(III) for recovery and rehabilitation after an emergency.

(ii) Procedure

A release under clause (i) shall be carried out in the same manner, and pursuant to the same authority as provided in title II of that Act.

(C) Insufficiency of other funds

The funds and commodities held in the trust shall be made immediately available on a determination by the Administrator that funds available for emergency needs under title II of that Act (7 U.S.C. 1721 et seq.) for a fiscal year are insufficient to meet emergency needs during the fiscal year.

(D) Waiver relating to minimum tonnage requirements

Nothing in this paragraph requires a waiver by the Administrator of the Agency for International Development under section 204(a)(3) of the Food for Peace Act (7 U.S.C. 1724(a)(3)) as a condition for a release of funds or commodities under subparagraph (B).

(2) Processing of eligible commodities

Eligible commodities that are released from the trust established under this section may be processed in the United States and shipped to a developing country when conditions in the recipient country require processing.

(3) Exchange

The Secretary may exchange an eligible commodity for another United States commodity of equal value, including powdered milk, pulses, and vegetable oil.

(4) Use of normal commercial practices

To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall use the usual and customary channels, facilities, arrangements, and practices of trade and commerce to carry out this subsection.

(d) Management of trust

(1) In general

The Secretary shall provide for the management of eligible commodities and funds held in the trust in a manner that is consistent with maximizing the value of the trust, as determined by the Secretary.

(2) Eligible commodities

The Secretary shall provide—

(A) for the management of eligible commodities in the trust established under this section as to location and quality of eligible commodities needed to meet emergency situations;

(B) for the periodic rotation or replacement of stocks of eligible commodities in the trust to avoid spoilage and deterioration of the commodities;¹

(C) subject to the need for release of commodities from the trust under subsection (c)(1), for the management of the trust to preserve the value of the trust through acquisitions under subsection (b)(2); and²

(3) Funds

(A) Exchanges

If any commodity held in the trust is exchanged for funds under subsection (b)(1)(D)(ii), the funds shall be held in the trust until the date on which the funds are released in the case of an emergency under subsection (c).

(B) Investment

The Secretary may invest funds held in the trust in any short-term obligation of the United States or any other low-risk short-term instrument or security insured by the Federal Government in which a regulated insurance company may invest under the laws of the District of Columbia.

(e) Treatment of trust under other law

Eligible commodities in the trust established under this section shall not be—

(1) considered a part of the total domestic supply (including carryover) for the purpose of subsection (c) or for the purpose of administering the Food for Peace Act (7 U.S.C. 1691 et seq.); and

(2) subject to any quantitative limitation on exports that may be imposed under section 4606³ of title 50.

(f) Use of Commodity Credit Corporation

(1) In general

Subject to the limitations provided in this section, the funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of eligible commodities owned or controlled by the Commodity Credit Corporation shall not apply.

(2) Reimbursement of trust

(A) In general

The Commodity Credit Corporation shall be reimbursed for the release of eligible

¹ So in original. Probably should be followed by “and”.

² So in original. The “; and” probably should be a period.

³ See References in Text note below.

commodities from funds made available to carry out the Food for Peace Act (7 U.S.C. 1691 et seq.) and the funds shall be available to replenish the trust under subsection (b).

(B) Basis for reimbursement

The reimbursement shall be made on the basis of the lesser of—

(i) the actual costs incurred by the Commodity Credit Corporation with respect to the eligible commodity; or

(ii) the export market price of the eligible commodity (as determined by the Secretary) as of the time the eligible commodity is released from the trust.

(C) Source of funds

The reimbursement may be made from funds appropriated for subsequent fiscal years.

(g) Finality of determination

Any determination by the Secretary under this section shall be final.

(h) Termination of authority

(1) In general

The authority to replenish stocks of eligible commodities to maintain the trust established under this section shall terminate on September 30, 2023.

(2) Disposal of eligible commodities

Eligible commodities remaining in the trust after September 30, 2023, shall be disposed of by release for use in providing for emergency humanitarian food needs in developing countries as provided in this section.

(Pub. L. 96-494, title III, § 302, as added Pub. L. 104-127, title II, § 225(a), Apr. 4, 1996, 110 Stat. 959; amended Pub. L. 105-385, title II, § 212(a), (b)(3), Nov. 13, 1998, 112 Stat. 3465, 3467; Pub. L. 107-171, title III, § 3202, May 13, 2002, 116 Stat. 300; Pub. L. 110-246, title III, §§ 3001(b)(1)(A), (2)(E), 3201, June 18, 2008, 122 Stat. 1820, 1834; Pub. L. 113-79, title III, § 3202, Feb. 7, 2014, 128 Stat. 779; Pub. L. 115-334, title III, § 3303, Dec. 20, 2018, 132 Stat. 4619.)

REFERENCES IN TEXT

The Food Security Wheat Reserve Act of 1980, referred to in subsec. (b)(1)(A), (B), is title III of the Agricultural Act of 1980, Pub. L. 96-494, Dec. 3, 1980, 94 Stat. 2578, which enacted former section 1736f-1 of this title and provisions set out as notes under that section, prior to the general amendment of title III by Pub. L. 104-127, title II, § 225(a), Apr. 4, 1996, 110 Stat. 959.

The Food for Peace Act, referred to in subsecs. (b)(2)(B)(i), (c)(1)(B), (C), (e)(1), and (f)(2)(A), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified generally to this chapter (§1691 et seq.). Title II of the Act is classified to subchapter III (§1721 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of this title and Tables.

Section 4606 of title 50, referred to in subsec. (e)(2), was repealed by Pub. L. 115-232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

CODIFICATION

The authorities provided by each provision of, and each amendment made by, Pub. L. 110-246, as in effect on Sept. 30, 2012, to continue, and the Secretary of Agriculture to carry out the authorities, until the later of

Sept. 30, 2013, or the date specified in the provision of, or amendment made by, Pub. L. 110-246, see section 701(a) of Pub. L. 112-240, set out in a 1-Year Extension of Agricultural Programs note under section 8701 of this title.

Section was enacted as part of the Bill Emerson Humanitarian Trust Act which is title III of the Agricultural Act of 1980, and not as part of the Food for Peace Act which comprises this chapter.

PRIOR PROVISIONS

A prior section 1736f-1, Pub. L. 96-494, title III, § 302, Dec. 3, 1980, 94 Stat. 2578; Pub. L. 99-198, title X, § 1013, Dec. 23, 1985, 99 Stat. 1456; Pub. L. 101-624, title XI, § 1143, title XV, § 1515(c), Nov. 28, 1990, 104 Stat. 3515, 3663, established food security wheat reserve, prior to general amendment of title III of Pub. L. 96-494 by Pub. L. 104-127, § 225(a).

AMENDMENTS

2018—Subsec. (b)(2)(B)(i). Pub. L. 115-334, § 3303(1), substituted “2023” for “2018” in two places.

Subsec. (h). Pub. L. 115-334, § 3303(2), substituted “2023” for “2018” in pars. (1) and (2).

2014—Subsec. (b)(2)(B)(i). Pub. L. 113-79, § 3202(1), substituted “2018” for “2012” in two places.

Subsec. (h). Pub. L. 113-79, § 3202(2), substituted “2018” for “2012” in pars. (1) and (2).

2008—Subsec. (a). Pub. L. 110-246, § 3201(1), substituted “establish and maintain a trust” for “establish a trust stock” and “any combination of the commodities, or funds” for “or any combination of the commodities, totaling not more than 4,000,000 metric tons”.

Subsec. (b)(1)(D). Pub. L. 110-246, § 3201(2)(A), added subpar. (D) and struck out former subpar. (D) which read as follows: “funds made available under paragraph (2)(B) which shall be used solely to replenish commodities in the trust.”

Subsec. (b)(2)(B)(i). Pub. L. 110-246, § 3201(2)(B)(i), substituted “2012” for “2007” in two places, substituted “(c)(1)” for “(c)(2)”, and struck out “and” at end.

Pub. L. 110-246, § 3001(b)(1)(A), (2)(E), substituted “Food for Peace Act” for “Agricultural Trade Development and Assistance Act of 1954”.

Subsec. (b)(2)(B)(ii), (iii). Pub. L. 110-246, § 3201(2)(B)(ii), (iii), substituted “; or” for period at end of cl. (ii) and added cl. (iii).

Subsec. (c). Pub. L. 110-246, § 3201(3), added par. (1), redesignated former pars. (3) to (5) as (2) to (4), respectively, and struck out former pars. (1) and (2) which related to, in par. (1), release of eligible commodities to provide emergency assistance to developing countries under title II of the Agricultural Trade Development and Assistance Act of 1954, and, in par. (2), release of eligible commodities to provide emergency food assistance to developing countries at such time as the domestic supply of such commodities had been so limited that quantities of them could not have been made available for disposition under the Act.

Subsec. (d). Pub. L. 110-246, § 3201(4), substituted “Management of trust” for “Management of eligible commodities” in subsec. heading, added par. (1), designated existing provisions as par. (2), inserted par. heading, redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (2), and added par. (3).

Subsecs. (e)(1), (f)(2)(A). Pub. L. 110-246, § 3001(b)(1)(A), (2)(E), substituted “Food for Peace Act” for “Agricultural Trade Development and Assistance Act of 1954”.

Subsec. (h). Pub. L. 110-246, § 3201(5), substituted “2012” for “2007” in pars. (1) and (2).

2002—Subsec. (b)(2)(B)(i). Pub. L. 107-171 substituted “2007” for “2002” in two places.

Subsec. (h). Pub. L. 107-171 substituted “2007” for “2002” in pars. (1) and (2).

1998—Pub. L. 105-385, § 212(b)(3)(A), substituted “trust” for “reserve” in section catchline.

Subsec. (a). Pub. L. 105-385, § 212(b)(3)(B), substituted “trust” for “reserve” in two places.

Subsec. (b). Pub. L. 105-385, § 212(a)(1)(A), (b)(3)(C)(i), in heading inserted “or funds” after “Commodities” and substituted “trust” for “reserve”.

Subsec. (b)(1). Pub. L. 105-385, §212(b)(3)(B), substituted “trust” for “reserve” in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 105-385, §212(b)(3)(C)(ii), substituted “trust,” for “reserve.”

Subsec. (b)(1)(C). Pub. L. 105-385, §212(b)(3)(B), substituted “trust” for “reserve”.

Subsec. (b)(1)(D). Pub. L. 105-385, §212(a)(1)(B), added subpar. (D).

Subsec. (b)(2). Pub. L. 105-385, §212(b)(3)(C)(iii), substituted “trust” for “reserve” in heading.

Subsec. (b)(2)(A). Pub. L. 105-385, §212(b)(3)(B), substituted “trust” for “reserve” in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 105-385, §212(a)(1)(C), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: “Any use of funds to acquire eligible commodities through purchases from producers or in the market to replenish the reserve must be authorized in an appropriations Act.”

Subsec. (c)(1)(B). Pub. L. 105-385, §212(b)(3)(B), substituted “trust” for “reserve” in introductory provisions.

Subsec. (c)(2). Pub. L. 105-385, §212(a)(2), (b)(3)(B), designated existing provisions as subpar. (A), inserted heading, substituted “trust” for “reserve”, and added subpar. (B).

Subsecs. (c)(3), (d)(1), (2). Pub. L. 105-385, §212(b)(3)(B), substituted “trust” for “reserve”.

Subsec. (d)(3). Pub. L. 105-385, §212(a)(3), added par. (3).

Subsec. (e). Pub. L. 105-385, §212(b)(3)(B), (D), substituted “trust” for “reserve” in heading and introductory provisions.

Subsec. (f)(2). Pub. L. 105-385, §212(a)(4)(A), inserted “of trust” after “Reimbursement” in heading.

Subsec. (f)(2)(A). Pub. L. 105-385, §212(a)(4)(B), inserted before period at end “and the funds shall be available to replenish the trust under subsection (b)”.

Subsecs. (f)(2)(B)(i), (h)(1), (2). Pub. L. 105-385, §212(b)(3)(B), substituted “trust” for “reserve”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-246 effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE

Pub. L. 96-494, title III, §303, Dec. 3, 1980, 94 Stat. 2580, provided that title III of Pub. L. 96-494 (enacting former section 1736f-1 of this title and provisions formerly set out as a note under that section) became effective on Dec. 3, 1980, prior to the general amendment of title III of Pub. L. 96-494 by Pub. L. 104-127, §225(a).

SHORT TITLE

Pub. L. 96-494, title III, §301, as added by Pub. L. 104-127, title II, §225(a), Apr. 4, 1996, 110 Stat. 959, and amended by Pub. L. 105-385, title II, §212(b)(2), Nov. 13, 1998, 112 Stat. 3466, provided that: “This title [enacting this section] may be cited as the ‘Bill Emerson Humanitarian Trust Act.’”

A prior section 301 of title III of Pub. L. 96-494 provided that title III (enacting former section 1736f-1 of this title and provisions set out as a note under that section) could be cited as the “Food Security Wheat Reserve Act of 1980”, prior to the general amendment of title III of Pub. L. 96-494 by Pub. L. 104-127, §225(a).

§ 1736g. Coordination of foreign assistance programs

To the maximum extent practicable, assistance for a foreign country under subchapter III-A shall be coordinated and integrated with United States development assistance objectives and programs for that country and with the overall development strategy of that country. Special emphasis should be placed on, and funds

devoted to, activities that will increase the nutritional impact of programs of assistance under subchapter III-A, and child survival programs and projects, in least developed countries by improving the design and implementation of such programs and projects.

(July 10, 1954, ch. 469, title IV, §413, as added Pub. L. 96-53, title II, §210, Aug. 14, 1979, 93 Stat. 370; amended Pub. L. 101-624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3656; Pub. L. 104-127, title II, §221, Apr. 4, 1996, 110 Stat. 958; Pub. L. 110-246, title III, §3022, June 18, 2008, 122 Stat. 1829; Pub. L. 113-79, title III, §3015, Feb. 7, 2014, 128 Stat. 778.)

AMENDMENTS

2014—Pub. L. 113-79 struck out subsec. (a) designation and heading before “To the maximum” and struck out subsec. (b) which required a report to Congress regarding efforts to improve procurement planning not later than 90 days after June 18, 2008.

2008—Pub. L. 110-246 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1996—Pub. L. 104-127 substituted “subchapter III-A” for “this chapter” in two places.

1990—Pub. L. 101-624 amended section generally, substituting present provisions for provisions requiring, to maximum extent practicable, availability of commodities on multiyear basis.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-246 effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-624 effective Jan. 1, 1991, see section 1513 of Pub. L. 101-624, set out as a note under section 1691 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 512(a) of Pub. L. 96-53, set out as an Effective Date of 1979 Amendment note under section 2151 of Title 22, Foreign Relations and Intercourse.

§ 1736g-1. Assistance in furtherance of narcotics control objectives of United States

(a) Substantial injury

Local currencies that are made available for use under this chapter may not be used to finance the production for export of agricultural commodities (or products thereof) that would compete in the world market with similar agricultural commodities (or products thereof) produced in the United States, if such competition would cause substantial injury to the United States producers, as determined by the President.

(b) Exception for narcotics control

Notwithstanding subsection (a), the President may provide assistance under this chapter, including assistance through the use of local currencies generated by the sale of commodities under such chapter, for economic development activities undertaken in an eligible country that is a major illicit drug producing country (as defined in section 2291(i)(2)¹ of title 22), for the purpose of reducing the dependence of the economy of such country on the production of crops

¹ So in original. Probably should be section “2291(e)(2)”.