

States to address noxious weed control and management.

(5) The extent to which the project promotes cooperation and participation between States that have common interests in controlling and eradicating noxious weeds.

(6) Other factors that the Secretary determines to be relevant.

**(e) Regional, State, and local involvement**

In determining which activities receive funding under this section, the Secretary shall, to the maximum extent practicable—

(1) rely on technical and merit reviews provided by regional, State, or local weed management experts; and

(2) give priority to activities that maximize the involvement of State, local, and, where applicable, representatives of Indian Tribe governments.

**(f) Rapid response program**

At the request of the Governor of a State, the Secretary may enter into a cooperative agreement with a weed management entity in that State to enable rapid response to outbreaks of noxious weeds at a stage which rapid eradication and control is possible and to ensure eradication or immediate control of the noxious weeds if—

(1) there is a demonstrated need for the assistance;

(2) the noxious weed is considered to be a significant threat to native fish, wildlife, or their habitats, as determined by the Secretary;

(3) the economic impact of delaying action is considered by the Secretary to be substantial; and

(4) the proposed response to such threat—

- (A) is technically feasible;
- (B) economically responsible; and

(C) minimizes adverse impacts to the structure and function of an ecosystem and adverse effects on nontarget species and ecosystems.

(Pub. L. 106-224, title IV, §455, as added Pub. L. 108-412, §1, Oct. 30, 2004, 118 Stat. 2322.)

**§ 7785. Relationship to other programs**

Funds under this Act (other than those made available for section 7784(f) of this title) are intended to supplement, not replace, assistance available to weed management entities, areas, and districts for control or eradication of noxious weeds on Federal lands and non-Federal lands. The provision of funds to a weed management entity under this Act (other than those made available for section 7784(f) of this title) shall have no effect on the amount of any payment received by a county from the Federal Government under chapter 69 of title 31.

(Pub. L. 106-224, title IV, §456, as added Pub. L. 108-412, §1, Oct. 30, 2004, 118 Stat. 2324.)

REFERENCES IN TEXT

This Act, referred to in text, probably means the Noxious Weed Control and Eradication Act of 2004, subtitle E (§§ 451-457) of title IV of Pub. L. 106-224, as added by Pub. L. 108-412, §1, Oct. 30, 2004, 118 Stat. 2320, which enacted this subchapter. For complete classification of

this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

**§ 7786. Authorization of appropriations**

**(a) Grants**

To carry out section 7783 of this title, there are authorized to be appropriated to the Secretary \$7,500,000 for each of fiscal years 2005 through 2009, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs.

**(b) Agreements**

To carry out section 7784 of this title, there are authorized to be appropriated to the Secretary \$7,500,000 for each of fiscal years 2005 through 2009, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs of Federal agencies.

(Pub. L. 106-224, title IV, §457, as added Pub. L. 108-412, §1, Oct. 30, 2004, 118 Stat. 2324.)

**CHAPTER 105—HASS AVOCADO PROMOTION, RESEARCH, AND INFORMATION**

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**§ 7801. Findings and declaration of policy**

**(a) Findings**

Congress finds the following:

(1) Hass avocados are an integral food source in the United States that are a valuable and healthy part of the human diet and are enjoyed by millions of persons every year for a multitude of everyday and special occasions.

(2) Hass avocados are a significant tree fruit crop grown by many individual producers, but virtually all domestically produced Hass avocados for the commercial market are grown in the State of California.

(3) Hass avocados move in interstate and foreign commerce, and Hass avocados that do not move in interstate or foreign channels of commerce but only in intrastate commerce directly affect interstate commerce in Hass avocados.

(4) In recent years, large quantities of Hass avocados have been imported into the United States from other countries.

(5) The maintenance and expansion of markets in existence on October 28, 2000, and the development of new or improved markets or uses for Hass avocados are needed to preserve and strengthen the economic viability of the domestic Hass avocado industry for the benefit of producers and other persons associated

with the producing, marketing, processing, and consuming of Hass avocados.

(6) An effective and coordinated program of promotion, research, industry information, and consumer information regarding Hass avocados is necessary for the maintenance, expansion, and development of domestic markets for Hass avocados.

**(b) Purpose**

It is the purpose of this chapter to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for the development and financing (through an adequate assessment on Hass avocados sold by producers and importers in the United States) of an effective and coordinated program of promotion, research, industry information, and consumer information, including funds for marketing and market research activities, that is designed to—

(1) strengthen the position of the Hass avocado industry in the domestic marketplace; and

(2) maintain, develop, and expand markets and uses for Hass avocados in the domestic marketplace.

**(c) Limitation**

Nothing in this chapter may be construed to provide for the control of production or otherwise limit the right of any person to produce, handle, or import Hass avocados.

(Pub. L. 106-387, §1(a) [title XII, §1202], Oct. 28, 2000, 114 Stat. 1549, 1549A-79.)

SHORT TITLE

Pub. L. 106-387, §1(a) [title XII, §1201], Oct. 28, 2000, 114 Stat. 1549, 1549A-79, provided that: "This title [enacting this chapter] may be cited as the 'Hass Avocado Promotion, Research, and Information Act of 2000'."

**§ 7802. Definitions**

As used in this chapter:

**(1) Board**

The terms "Avocado Board" and "Board" mean the Hass Avocado Board established under section 7804 of this title.

**(2) Conflict of interest**

The term "conflict of interest" means a situation in which a member or employee of the Board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, the Board for anything of economic value.

**(3) Consumer information**

The term "consumer information" means any action or program that provides information to consumers and other persons on the use, nutritional attributes, and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of Hass avocados.

**(4) Customs**

The term "Customs" means the United States Customs Service.

**(5) Department**

The term "Department" means the United States Department of Agriculture.

**(6) Hass avocado**

**(A) In general**

The term "Hass avocado" includes—

(i) the fruit of any Hass variety avocado tree; and

(ii) any other type of avocado fruit that the Board, with the approval of the Secretary, determines is so similar to the Hass variety avocado as to be indistinguishable to consumers in fresh form.

**(B) Form of fruit**

Except as provided in subparagraph (C), the term includes avocado fruit described in subparagraph (A) whether in fresh, frozen, or any other processed form.

**(C) Exceptions**

In any case in which a handler further processes avocados described in subparagraph (A), or products of such avocados, for sale to a retailer, the Board, with the approval of the Secretary, may determine that such further processed products do not constitute a substantial value of the product and that, based on its determination, the product shall not be treated as a product of Hass avocados subject to assessment under the order. In addition, the Board, with the approval of the Secretary, may exempt certain frozen avocado products from assessment under the order.

**(7) Handler**

**(A) First handler**

The term "first handler" means a person operating in the Hass avocados marketing system that sells domestic or imported Hass avocados for United States domestic consumption, and who is responsible for remitting assessments to the Board. The term includes an importer or producer who sells directly to consumers Hass avocados that the importer or producer has imported into the United States or produced, respectively.

**(B) Exempt handler**

The term "exempt handler" means a person who would otherwise be considered a first handler, except that all avocados purchased by the person have already been subject to the assessment under section 7804(h) of this title.

**(8) Importer**

The term "importer" means any person who imports Hass avocados into the United States.

**(9) Industry information**

The term "industry information" means information and programs that are designed to increase efficiency in processing, enhance the development of new markets and marketing strategies, increase marketing efficiency, and activities to enhance the image of Hass avocados and the Hass avocado industry domestically.

**(10) Order**

The term "order" means the Hass avocado promotion, research, and information order issued under this chapter.