

Short Title note set out under section 7701 of this title and Tables.

#### TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this chapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 7772. Transfer authority

#### (a) Authority to transfer certain funds

In connection with an emergency in which a plant pest or noxious weed threatens any segment of the agricultural production of the United States, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such amounts as the Secretary considers necessary to be available in the emergency for the arrest, control, eradication, and prevention of the spread of the plant pest or noxious weed and for related expenses.

#### (b) Availability

Any funds transferred under this section shall remain available for such purposes without fiscal year limitation.

#### (c) Secretarial discretion

The action of any officer, employee, or agent of the Secretary in carrying out this Act, including determining the amount of and making any payment authorized to be made under this chapter, shall not be subject to a review by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

(Pub. L. 106-224, title IV, § 442, June 20, 2000, 114 Stat. 455; Pub. L. 107-171, title VII, § 7504(b), May 13, 2002, 116 Stat. 466; Pub. L. 110-234, title X, § 10203(b), May 22, 2008, 122 Stat. 1342; Pub. L. 110-246, § 4(a), title X, § 10203(b), June 18, 2008, 122 Stat. 1664, 2104.)

#### REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 106-224, June 20, 2000, 114 Stat. 358, known as the Agricultural Risk Protection Act of 2000. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 1501 of this title and Tables.

This chapter, referred to in subsec. (c), was in the original “this title”, meaning title IV of Pub. L. 106-224, June 20, 2000, 114 Stat. 438, known as the Plant Protection Act, which is classified principally to this chapter. For complete classification of title IV to the Code, see Short Title note set out under section 7701 of this title and Tables.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Similar provisions relating to authority to transfer funds for emergency arrest of animal, poultry, or plant diseases or pests were contained in section 129 of Title 21, Food and Drugs, prior to its omission from the Code, and similar provisions relating to authority to transfer funds for emergency arrest of animal or poultry dis-

eases were contained in section 129a of Title 21, prior to repeal by Pub. L. 107-171, title X, § 10418(a)(1), May 13, 2002, 116 Stat. 507.

#### AMENDMENTS

2008—Subsec. (c). Pub. L. 110-246, § 10203(b), struck out “of longer than 60 days” after “review”.

2002—Subsec. (c). Pub. L. 107-171 added subsec. (c).

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

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### SUBCHAPTER V—NOXIOUS WEED CONTROL AND ERADICATION

### § 7781. Definitions

In this subchapter:

#### (1) Indian tribe

The term “Indian Tribe” has the meaning given that term in section 450b of title 25.

#### (2) Weed management entity

The term “weed management entity” means an entity that—

(A) is recognized by the State in which it is established;

(B) is established for the purpose of or has demonstrable expertise and significant experience in controlling or eradicating noxious weeds and increasing public knowledge and education concerning the need to control or eradicate noxious weeds;

(C) may be multijurisdictional and multidisciplinary in nature;

(D) may include representatives from Federal, State, local, or, where applicable, Indian Tribe governments, private organizations, individuals, and State-recognized conservation districts or State-recognized weed management districts; and

(E) has existing authority to perform land management activities on Federal land if the proposed project or activity is on Federal lands.

#### (3) Federal lands

The term “Federal lands” means those lands owned and managed by the United States Forest Service or the Bureau of Land Management.

(Pub. L. 106-224, title IV, § 452, as added Pub. L. 108-412, § 1, Oct. 30, 2004, 118 Stat. 2320.)

#### SHORT TITLE

For short title of this subchapter as the “Noxious Weed Control and Eradication Act of 2004”, see section 451 of Pub. L. 106-224, set out as a note under section 7701 of this title.

#### SALT CEDAR AND RUSSIAN OLIVE CONTROL

Pub. L. 109-320, Oct. 11, 2006, 120 Stat. 1748, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Salt Cedar and Russian Olive Control Demonstration Act’.

“SEC. 2. SALT CEDAR AND RUSSIAN OLIVE CONTROL DEMONSTRATION PROGRAM.

“(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this Act as the ‘Secretary’), acting through the Commissioner of Reclamation and the Director of the United States Geological Survey and in cooperation with the Secretary of Agriculture and the Secretary of Defense, shall carry out a salt cedar (*Tamarix* spp) and Russian olive (*Elaeagnus angustifolia*) assessment and demonstration program—

“(1) to assess the extent of the infestation by salt cedar and Russian olive trees in the western United States;

“(2) to demonstrate strategic solutions for—

“(A) the long-term management of salt cedar and Russian olive trees; and

“(B) the reestablishment of native vegetation; and

“(3) to assess economic means to dispose of biomass created as a result of removal of salt cedar and Russian olive trees.

“(b) MEMORANDUM OF UNDERSTANDING.—As soon as practicable after the date of enactment of this Act [Oct. 11, 2006], the Secretary and the Secretary of Agriculture shall enter into a memorandum of understanding providing for the administration of the program established under subsection (a).

“(c) ASSESSMENT.—

“(1) IN GENERAL.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary shall complete an assessment of the extent of salt cedar and Russian olive infestation on public and private land in the western United States.

“(2) REQUIREMENTS.—In addition to describing the acreage of and severity of infestation by salt cedar and Russian olive trees in the western United States, the assessment shall—

“(A) consider existing research on methods to control salt cedar and Russian olive trees;

“(B) consider the feasibility of reducing water consumption by salt cedar and Russian olive trees;

“(C) consider methods of and challenges associated with the revegetation or restoration of infested land; and

“(D) estimate the costs of destruction of salt cedar and Russian olive trees, related biomass removal, and revegetation or restoration and maintenance of the infested land.

“(3) REPORT.—

“(A) IN GENERAL.—The Secretary shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Resources [now Committee on Natural Resources] and the Committee on Agriculture of the House of Representatives a report that includes the results of the assessment conducted under paragraph (1).

“(B) CONTENTS.—The report submitted under subparagraph (A) shall identify—

“(i) long-term management and funding strategies identified under subsection (d) that could be implemented by Federal, State, tribal, and private land managers and owners to address the infestation by salt cedar and Russian olive;

“(ii) any deficiencies in the assessment or areas for additional study; and

“(iii) any field demonstrations that would be useful in the effort to control salt cedar and Russian olive.

“(d) LONG-TERM MANAGEMENT STRATEGIES.—

“(1) IN GENERAL.—The Secretary shall identify and document long-term management and funding strategies that—

“(A) could be implemented by Federal, State, tribal, and private land managers in addressing infestation by salt cedar and Russian olive trees; and

“(B) should be tested as components of demonstration projects under subsection (e).

“(2) GRANTS.—

“(A) IN GENERAL.—The Secretary may provide grants to eligible entities to provide technical experience, support, and recommendations relating to the identification and documentation of long-term management and funding strategies under paragraph (1).

“(B) ELIGIBLE ENTITIES.—Institutions of higher education and nonprofit organizations with an established background and expertise in the public policy issues associated with the control of salt cedar and Russian olive trees shall be eligible for a grant under subparagraph (A).

“(C) MINIMUM AMOUNT.—The amount of a grant provided under subparagraph (A) shall be not less than \$250,000.

“(e) DEMONSTRATION PROJECTS.—

“(1) IN GENERAL.—Not later than 180 days after the date on which funds are made available to carry out this Act, the Secretary shall establish a program that selects and funds not less than 5 projects proposed by and implemented in collaboration with Federal agencies, units of State and local government, national laboratories, Indian tribes, institutions of higher education, individuals, organizations, or soil and water conservation districts to demonstrate and evaluate the most effective methods of controlling salt cedar and Russian olive trees.

“(2) PROJECT REQUIREMENTS.—The demonstration projects under paragraph (1) shall—

“(A) be carried out over a time period and to a scale designed to fully assess long-term management strategies;

“(B) implement salt cedar or Russian olive tree control using 1 or more methods for each project in order to assess the full range of control methods, including—

“(i) airborne application of herbicides;

“(ii) mechanical removal; and

“(iii) biocontrol methods, such as the use of goats or insects;

“(C) individually or in conjunction with other demonstration projects, assess the effects of and obstacles to combining multiple control methods and determine optimal combinations of control methods;

“(D) assess soil conditions resulting from salt cedar and Russian olive tree infestation and means to revitalize soils;

“(E) define and implement appropriate final vegetative states and optimal revegetation methods, with preference for self-maintaining vegetative states and native vegetation, and taking into consideration downstream impacts, wildfire potential, and water savings;

“(F) identify methods for preventing the regrowth and reintroduction of salt cedar and Russian olive trees;

“(G) monitor and document any water savings from the control of salt cedar and Russian olive trees, including impacts to both groundwater and surface water;

“(H) assess wildfire activity and management strategies;

“(I) assess changes in wildlife habitat;

“(J) determine conditions under which removal of biomass is appropriate (including optimal methods for the disposal or use of biomass); and

“(K) assess economic and other impacts associated with control methods and the restoration and maintenance of land.

“(f) DISPOSITION OF BIOMASS.—

“(1) IN GENERAL.—Not later than 1 year after the date on which funds are made available to carry out this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall complete an analysis of economic means to use or dispose of biomass created as a result of removal of salt cedar and Russian olive trees.

“(2) REQUIREMENTS.—The analysis shall—

“(A) determine conditions under which removal of biomass is economically viable;

“(B) consider and build upon existing research by the Department of Agriculture and other agencies on beneficial uses of salt cedar and Russian olive tree fiber; and

“(C) consider economic development opportunities, including manufacture of wood products using biomass resulting from demonstration projects under subsection (e) as a means of defraying costs of control.

“(g) COSTS.—

“(1) IN GENERAL.—With respect to projects and activities carried out under this Act—

“(A) the assessment under subsection (c) shall be carried out at a cost of not more than \$4,000,000;

“(B) the identification and documentation of long-term management strategies under subsection (d)(1) and the provision of grants under subsection (d)(2) shall be carried out at a cost of not more than \$2,000,000;

“(C) each demonstration project under subsection (e) shall be carried out at a Federal cost of not more than \$7,000,000 (including costs of planning, design, implementation, maintenance, and monitoring); and

“(D) the analysis under subsection (f) shall be carried out at a cost of not more than \$3,000,000.

“(2) COST-SHARING.—

“(A) IN GENERAL.—The assessment under subsection (c), the identification and documentation of long-term management strategies under subsection (d), a demonstration project or portion of a demonstration project under subsection (e) that is carried out on Federal land, and the analysis under subsection (f) shall be carried out at full Federal expense.

“(B) DEMONSTRATION PROJECTS CARRIED OUT ON NON-FEDERAL LAND.—

“(i) IN GENERAL.—The Federal share of the costs of any demonstration project funded under subsection (e) that is not carried out on Federal land shall not exceed 75 percent.

“(ii) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the costs of a demonstration project that is not carried out on Federal land may be provided in the form of in-kind contributions, including services provided by a State agency or any other public or private partner.

“(h) COOPERATION.—In carrying out the assessment under subsection (c), the demonstration projects under subsection (e), and the analysis under subsection (f), the Secretary shall cooperate with and use the expertise of Federal agencies and the other entities specified in subsection (e)(1) that are actively conducting research on or implementing salt cedar and Russian olive tree control activities.

“(i) INDEPENDENT REVIEW.—The Secretary shall subject to independent review—

“(1) the assessment under subsection (c);

“(2) the identification and documentation of long-term management strategies under subsection (d);

“(3) the demonstration projects under subsection (e); and

“(4) the analysis under subsection (f).

“(j) REPORTING.—

“(1) IN GENERAL.—The Secretary shall submit to Congress an annual report that describes the results of carrying out this Act, including a synopsis of any independent review under subsection (i) [sic] and details of the manner and purposes for which funds are expended.

“(2) PUBLIC ACCESS.—The Secretary shall facilitate public access to all information that results from carrying out this Act.

“(k) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this Act—

“(A) \$20,000,000 for fiscal year 2006; and

“(B) \$15,000,000 for each of fiscal years 2007 through 2010.

“(2) ADMINISTRATIVE COSTS.—Not more than 15 percent of amounts made available under paragraph (1) shall be used to pay the administrative costs of carrying out the program established under subsection (a).

“(l) TERMINATION OF AUTHORITY.—This Act and the authority provided by this Act terminate on the date that is 5 years after the date of the enactment of this Act [Oct. 11, 2006].”

## § 7782. Establishment of program

### (a) In general

The Secretary shall establish a program to provide financial and technical assistance to control or eradicate noxious weeds.

### (b) Grants

Subject to the availability of appropriations under section 7786(a) of this title, the Secretary shall make grants under section 7783 of this title to weed management entities for the control or eradication of noxious weeds.

### (c) Agreements

Subject to the availability of appropriations under section 7786(b) of this title, the Secretary shall enter into agreements under section 7784 of this title with weed management entities to provide financial and technical assistance for the control or eradication of noxious weeds.

(Pub. L. 106–224, title IV, § 453, as added Pub. L. 108–412, § 1, Oct. 30, 2004, 118 Stat. 2321.)

## § 7783. Grants to weed management entities

### (a) Consultation and consent

In carrying out a grant under this subchapter, the weed management entity and the Secretary shall—

(1) if the activities funded under the grant will take place on Federal land, consult with the heads of the Federal agencies having jurisdiction over the land; or

(2) obtain the written consent of the non-Federal landowner.

### (b) Grant considerations

In determining the amount of a grant to a weed management entity, the Secretary shall consider—

(1) the severity or potential severity of the noxious weed problem;

(2) the extent to which the Federal funds will be used to leverage non-Federal funds to address the noxious weed problem;

(3) the extent to which the weed management entity has made progress in addressing the noxious weeds problem; and

(4) other factors that the Secretary determines to be relevant.

### (c) Use of grant funds; cost shares

#### (1) Use of grants

A weed management entity that receives a grant under subsection (a) shall use the grant funds to carry out a project authorized by subsection (d) for the control or eradication of a noxious weed.

#### (2) Cost shares

##### (A) Federal cost share

The Federal share of the cost of carrying out an authorized project under this section