

any person or class of persons challenging a Federal project, program, or other activity that may affect farmland: *Provided*, That the Governor of an affected State where a State policy or program exists to protect farmland may bring an action in the Federal district court of the district where a Federal program is proposed to enforce the requirements of section 4202 of this title and regulations issued pursuant thereto.

(Pub. L. 97-98, title XV, §1548, Dec. 22, 1981, 95 Stat. 1344; Pub. L. 99-198, title XII, §1255(b), Dec. 23, 1985, 99 Stat. 1518.)

#### AMENDMENTS

1985—Pub. L. 99-198 substituted “by any person” for “by any State, local unit of government, or any person” and inserted proviso.

#### EFFECTIVE DATE

Section effective six months after Dec. 22, 1981, see section 1549 of Pub. L. 97-98, set out as a note under section 4201 of this title.

### CHAPTER 74—FLORAL RESEARCH AND CONSUMER INFORMATION

Sec.	
4301.	Congressional findings and declaration of policy.
4302.	Definitions.
4303.	Floral research and promotion orders.
4304.	Notice and hearing.
4305.	Finding and issuance of orders.
4306.	Required terms in orders.
4307.	Permissive terms in orders.
4308.	Referendum; necessity, etc.
4309.	Suspension and termination of orders.
4310.	Amendments to orders.
4311.	Exemption from assessments.
4312.	Refund of assessments.
4313.	Administrative and judicial review; procedures applicable.
4314.	Enforcement of provisions.
4315.	Certification of organizations; applicable criteria and considerations.
4316.	Regulations.
4317.	Investigations; subpoena powers, etc.; enforcement.
4318.	Separability.
4319.	Authorization of appropriations.

#### § 4301. Congressional findings and declaration of policy

Flowers and plants are an integral part of American life, contributing a natural and beautiful element, especially in urban areas, to what is increasingly a manmade, artificial environment for this country's citizens. Providing comfort and pleasure for many special occasions as well as for everyday living, flowers and plants work against visual pollution and, in the case of green plants, generate oxygen within their environment. The flowers and plants to which this chapter refers are cut flowers, potted flowering plants, and foliage plants. These flowers and plants are produced by many individual producers throughout the United States and in foreign countries. These products move in interstate and foreign commerce, and those that do not move in such channels of commerce directly burden or affect interstate commerce of these products. The maintenance and expansion of existing markets and the development of new or improved markets and uses are vital to the wel-

fare of flower and plant producers, brokers, wholesalers, and retailers throughout the Nation. The floral industry within the United States is comprised mainly of small- and medium-sized businesses. The producers are primarily agriculturally-oriented companies rather than promotion-oriented companies. The development and implementation of coordinated programs of research and promotion necessary for the maintenance of markets and the development of new markets have been inadequate. Without cooperative action in providing for and financing such programs, individual flower and plant producers, wholesalers, and retailers are unable to implement programs of research, consumer and producer information, and promotion necessary to maintain and improve markets for these products. It is widely recognized that it is in the public interest to provide an adequate, steady supply of fresh flowers and plants to the consumers of the Nation. The American consumer requires a continuing supply of quality and affordable flowers and plants as an important element in the quality of life. It is, therefore, declared to be the policy of Congress and the purpose of this chapter that it is essential and in the public interest to authorize the establishment of an orderly procedure for the development and financing, through an adequate assessment, of an effective and coordinated program of research, consumer and producer education, and promotion designed to strengthen the floral industry's position in the marketplace and maintain, develop, and expand markets for flowers, plants, and flowering plants. Nothing in this chapter may be construed to dictate quality standards or provide for control of production or otherwise limit the right of individual flower and plant producers to produce commercial flowers and plants. Nothing in this chapter may be construed as a trade barrier to flowers and plants produced in foreign countries, and this chapter treats foreign producers equitably.

(Pub. L. 97-98, title XVII, §1702, Dec. 22, 1981, 95 Stat. 1348.)

#### SHORT TITLE

Pub. L. 97-98, title XVII, §1701, Dec. 22, 1981, 95 Stat. 1348, provided that: “This title [enacting this chapter] may be cited as the ‘Floral Research and Consumer Information Act’.”

#### EFFECTIVE DATE

Pub. L. 97-98, title XVIII, §1801, Dec. 22, 1981, 95 Stat. 1358, provided that: “Except as otherwise provided herein, the provisions of this Act [see Tables for classification] shall become effective on enactment [Dec. 22, 1981].”

#### § 4302. Definitions

As used in this chapter—

(1) The term “Secretary” means the Secretary of Agriculture of the United States Department of Agriculture.

(2) The term “person” means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(3) The term “cut flowers” means all flowers and decorative foliage used as fresh-cut flowers, fresh-cut decorative foliage, dried, preserved, and processed flowers, or dried and preserved

decorative foliage, produced either under cover or in field operations.

(4) The term “potted flowering plants” means those plants that normally produce flowers, primarily produced in pots or similar containers, that are primarily used for interior decoration, whether grown under cover or in field operations.

(5) The term “foliage plants” means those plants, normally without flowers, primarily produced in pots or similar containers, that are primarily used for interior decorations, whether grown under cover or in field operations.

(6) The term “propagational material” means any plant material used in the propagation of cut flowers, potted flowering plants, and foliage plants, including cuttings, bulbs and corms, seedlings, canes, liners, plants, cells or tissue cultures, air layers and bublets,<sup>1</sup> rhizomes, and root stocks. This term does not include seeds.

(7) The term “flowers and plants” means cut flowers, potted flowering plants, foliage plants, and propagational material.

(8) The term “United States” means the fifty States of the United States of America, the territories and possessions of the United States of America, and the District of Columbia.

(9) The term “promotion” means any action, including paid advertising, to advance the image or desirability of cut flowers, potted flowering plants, and foliage plants.

(10) The term “research” means any type of research to advance the image, desirability, or marketability of cut flowers, potted flowering plants, and foliage plants.

(11) The term “consumer education” means any action to provide information on the care and handling of cut flowers, potted flowering plants, and foliage plants.

(12) The term “marketing” means the sale or other disposition in commerce of cut flowers, potted flowering plants, and foliage plants.

(13) Unless otherwise noted, the term “producer” means any person who produces domestically, for sale in commerce, cut flowers, potted flowering plants, or foliage plants.

(14) The term “Floraboard” means the board provided for under section 4306 of this title.

(15) The term “importer” means any person who imports cut flowers, potted flowering plants, or foliage plants from outside of the United States or who acts as an agent, broker, or consignee of any person or nation that produces flowers and plants outside of the United States for sale in the United States.

(16) The term “commodity group” means that portion of the flower and plant industry devoted to the production and importation of any one of the following: (A) cut flowers; (B) potted flowering plants; or (C) foliage plants.

(17) The term “cost of plant material” means the actual price paid by a producer for any propagational material or any other flowers and plants used in the production of flowers and plants. This term does not include the cost of seeds.

(Pub. L. 97-98, title XVII, §1703, Dec. 22, 1981, 95 Stat. 1349.)

<sup>1</sup> So in original. Probably should be “bulblets.”

### § 4303. Floral research and promotion orders

To effectuate the declared policy of this chapter, the Secretary shall, subject to the provisions of this chapter, issue and, from time to time, may amend orders applicable to persons engaged in production, sale, importation, or handling of flowers and plants. Such orders shall be applicable to all production or marketing areas, or both, in the United States.

(Pub. L. 97-98, title XVII, §1704, Dec. 22, 1981, 95 Stat. 1350.)

### § 4304. Notice and hearing

Whenever the Secretary has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter, the Secretary shall give due notice and opportunity for hearing upon a proposed order. Such hearing may be requested and a proposal for an order submitted by an organization certified pursuant to section 4315 of this chapter, or by any interested person affected by the provisions of this chapter, including the Secretary.

(Pub. L. 97-98, title XVII, §1705, Dec. 22, 1981, 95 Stat. 1350.)

### § 4305. Finding and issuance of orders

After notice and opportunity for hearing as provided in section 4304 of this title, the Secretary shall issue an order if the Secretary finds, and sets forth in such order, upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this chapter.

(Pub. L. 97-98, title XVII, §1706, Dec. 22, 1981, 95 Stat. 1350.)

### § 4306. Required terms in orders

Orders issued pursuant to this chapter shall contain the following terms and conditions and, except as provided in section 4307 of this title, no others:

(1) Providing for the establishment and appointment by the Secretary of a board to be named “Floraboard”, which shall consist of not more than seventy-five voting members, and defining its powers and duties, which shall include only the powers to (A) administer such order in accordance with its terms and provisions, (B) make rules and regulations to effectuate the terms and provisions of such order, (C) receive, investigate, and report to the Secretary complaints of violations of such order, and (D) recommend to the Secretary amendments of such order. The term of an appointment to the Floraboard shall be for three years with no member serving more than two consecutive three-year terms: *Provided*, That of the initial appointments, one-third shall be for a term of one year and one-third shall be for a term of two years. The Floraboard shall appoint from its members an executive committee, consisting of not more than fifteen members, whose membership shall, to the maximum extent practicable, reflect the membership composition of the Floraboard, and whose commodity group representation shall be proportional to that of the Floraboard. Such ex-