

Union Calendar No. 438

108TH CONGRESS
2D SESSION

S. 144

[Report No. 108–517, Part I]

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2003

Referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JUNE 1, 2004

Reported from the Committee on Resources with an amendment
[Strike out all after the enacting clause and insert the part printed in *italic*]

JUNE 1, 2004

Referral to the Committee on Agriculture extended for a period ending not later than July 9, 2004

JULY 9, 2004

Referral to the Committee on Agriculture extended for a period ending not later than July 31, 2004

JULY 31, 2004

Referral to the Committee on Agriculture extended for a period ending not later than September 7, 2004

SEPTEMBER 7, 2004

Referral to the Committee on Agriculture extended for a period ending not later than September 30, 2004

SEPTEMBER 30, 2004

The Committee on Agriculture discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

AN ACT

To require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SEC. 1. SHORT TITLE.**

4 *This Act may be cited as the “Noxious Weed Control*
 5 *Act of 2004”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) *NOXIOUS WEED.*—*The term “noxious weed”*
 9 *has the meaning given that term in section 403(10)*
 10 *of the Plant Protection Act (7 U.S.C. 7702(10)).*

11 (2) *SECRETARY.*—*The term “Secretary” means*
 12 *the Secretary of Agriculture.*

13 (3) *INDIAN TRIBE.*—*The term “Indian tribe” has*
 14 *the meaning given that term in section 4 of the In-*
 15 *dian Self-Determination and Education Assistance*
 16 *Act (25 U.S.C. 450b).*

1 (4) *FEDERAL LANDS*.—The term “Federal lands”
 2 means Federal lands under the jurisdiction of the Bu-
 3 reau of Land Management or the Forest Service.

4 (5) *WEED MANAGEMENT ENTITY*.—The term
 5 “weed management entity” means an entity that—

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

8 (B) is established for the purpose of control-
 9 ling or eradicating noxious weeds and increasing
 10 public knowledge and education concerning the
 11 need to control or eradicate noxious weeds;

12 (C) may be multijurisdictional and multi-
 13 disciplinary in nature; and

14 (D) may include Federal and State rep-
 15 resentatives, private organizations, individuals,
 16 and State-recognized conservation districts.

17 **SEC. 3. ESTABLISHMENT OF PROGRAM.**

18 The Secretary shall establish a program to provide fi-
 19 nancial assistance through States to eligible weed manage-
 20 ment entities to control or eradicate noxious weeds. In de-
 21 veloping the program, the Secretary shall consult with the
 22 Secretary of the Interior, representatives from States and
 23 Indian tribes that have weed management entities or that
 24 have particular problems with noxious weeds, and public

1 *and private entities with experience in noxious weed man-*
 2 *agement.*

3 **SEC. 4. ALLOCATION OF FUNDS TO STATES AND INDIAN**
 4 **TRIBES.**

5 (a) *IN GENERAL.*—Under the program established pur-
 6 suant to section 3, the Secretary may allocate funds to
 7 States to provide funding to weed management entities to
 8 carry out projects approved by States to control or eradicate
 9 noxious weeds on the basis of—

10 (1) *the severity or potential severity of the nox-*
 11 *ious weed problem;*

12 (2) *the extent to which the Federal funds will be*
 13 *used to leverage non-Federal funds;*

14 (3) *the extent to which the State has made*
 15 *progress in addressing noxious weed problems; and*

16 (4) *such other factors as the Secretary considers*
 17 *relevant.*

18 (b) *SPECIAL CONSIDERATION.*—The Secretary shall
 19 give special consideration to States with approved weed
 20 management entities established by Indian Tribes and may
 21 provide an additional allocation to a State to meet the par-
 22 ticular needs and projects that such a weed management
 23 entity plans to address.

24 (c) *EQUAL CONSIDERATION OF PROJECTS.*—To the ex-
 25 tent made possible by acceptable applications, the Secretary

1 *shall give equal consideration to projects that address nox-*
 2 *ious weed problems on lands under the jurisdiction of the*
 3 *Federal Bureau of Land Management and projects that ad-*
 4 *dress noxious weed problems on lands under the jurisdiction*
 5 *of the Forest Service.*

6 **SEC. 5. ELIGIBILITY AND USE OF FUNDS.**

7 (a) *REQUIREMENTS.*—*The Secretary shall prescribe re-*
 8 *quirements for applications by weed management entities*
 9 *for funding under this Act (other than section 10). Such*
 10 *requirements shall include—*

11 (1) *requirements for auditing of and reporting*
 12 *on the use of the funds received under this Act by a*
 13 *weed management entity;*

14 (2) *requirements that a weed management entity*
 15 *receiving funds under this Act (other than section 10)*
 16 *to provide to the Secretary adequate assurances that*
 17 *the weed management entity—*

18 (A) *is capable of carrying out the project;*

19 (B) *is capable of monitoring and reporting*
 20 *on the use of the funds;*

21 (C) *is knowledgeable about and experienced*
 22 *in noxious weed management; and*

23 (D) *represents private and public interests*
 24 *adversely affected by noxious weeds; and*

1 (3) *a requirement that the results of the project*
 2 *be made available to the public.*

3 (b) *ELIGIBLE PROJECTS.—Projects eligible to be fund-*
 4 *ed under this Act (other than section 10) are projects relat-*
 5 *ing to the control or eradication of noxious weeds, including*
 6 *the following:*

7 (1) *Education.*

8 (2) *Inventories.*

9 (3) *Mapping.*

10 (4) *Management.*

11 (5) *Monitoring.*

12 (6) *Payment of the cost of personnel and equip-*
 13 *ment that promote control or eradication of noxious*
 14 *weeds.*

15 (7) *Other activities to promote such control or*
 16 *eradication, if the results of the activities are dissemi-*
 17 *nated to the public.*

18 (c) *PROJECT SELECTION.—The Secretary shall select*
 19 *projects for funding on a competitive basis considering the*
 20 *following:*

21 (1) *The seriousness of the noxious weed problem*
 22 *or potential problem addressed by the project.*

23 (2) *The likelihood that the project will prevent or*
 24 *resolve the problem, or increase knowledge about re-*
 25 *solving similar problems in the future.*

1 (3) *The extent to which the payment will lever-*
 2 *age non-Federal funds to address the noxious weed*
 3 *problem addressed by the project.*

4 (4) *The extent to which the project is likely to*
 5 *provide a comprehensive approach to the control or*
 6 *eradication of noxious weeds.*

7 (5) *The extent to which the project is likely to re-*
 8 *duce the population of a noxious weed.*

9 (6) *The extent to which the project uses sound*
 10 *science.*

11 (7) *Such other factors that the Secretary deter-*
 12 *mines relevant.*

13 (d) *FEDERAL SHARE.*—*The Federal share of any*
 14 *project funded under this Act (other than section 10) may*
 15 *not exceed 50 percent—*

16 (1) *unless the State meets criteria established by*
 17 *the Secretary that accommodates situations where a*
 18 *higher percentage is necessary to meet the needs of an*
 19 *underserved area or addresses a critical need that can*
 20 *not be met otherwise; or*

21 (2) *the project will be carried out exclusively on*
 22 *Federal lands.*

23 **SEC. 6. TECHNICAL ASSISTANCE.**

24 *Field offices of the Bureau of Land Management and*
 25 *the Forest Service may provide technical assistance, on a*

1 reimbursable basis, to weed management agencies in devel-
 2 oping projects and filing applications for funding of
 3 projects under this Act (other than section 10).

4 **SEC. 7. CONDITIONS.**

5 (a) *LANDOWNER CONSENT; LAND UNDER CULTIVA-*
 6 *TION.*—Any activity involving real property, either private
 7 or public, may be carried out under this Act (other than
 8 section 10) only with the consent of the landowner and no
 9 project may be undertaken on property that is devoted to
 10 the cultivation of row crops, fruits, or vegetables.

11 (b) *COMPLIANCE WITH STATE LAW.*—A weed manage-
 12 ment entity may carry out a project to address a noxious
 13 weed problem in more than 1 State only if the weed man-
 14 agement entity meets the requirements of the State laws in
 15 all States in which the weed management entity will under-
 16 take the project.

17 (c) *USE OF FUNDS.*—Funding under this Act (other
 18 than section 10) may not be used to carry out a project—

19 (1) to control or eradicate animals or pests; or

20 (2) to protect an agricultural commodity (as de-

21 fined in section 102 of the Agricultural Trade Act of

22 1978 (7 U.S.C. 5602)) other than—

23 (A) livestock (as defined in section 602 of

24 the Agricultural Trade Act of 1949 (7 U.S.C.

25 1471)); or

1 (B) *an animal- or insect-based product.*

2 **SEC. 8. RELATIONSHIP TO OTHER PROGRAMS.**

3 *Funds under this Act (other than section 10) are in-*
 4 *tended to supplement, not replace, assistance available to*
 5 *weed management entities, areas, and districts for control*
 6 *or eradication of noxious weeds on Federal lands and pri-*
 7 *vate lands. The provision of funds to a weed management*
 8 *entity under this Act (other than section 10) shall have no*
 9 *effect on the amount of any payment received by a county*
 10 *from the Federal Government under chapter 69 of title 31,*
 11 *United States Code (commonly known as the “Payments*
 12 *in Lieu of Taxes Act”).*

13 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

14 *To carry out sections 1 through 8 of this Act, there*
 15 *is authorized to be appropriated to the Secretary*
 16 *\$50,000,000 for each of fiscal years 2005 through 2009, of*
 17 *which—*

18 (1) *not more than 5 percent of the funds made*
 19 *available for a fiscal year may be used by the Sec-*
 20 *retary for administrative costs of Federal agencies;*
 21 *and*

22 (2) *not more than 10 percent of the funds made*
 23 *available for a fiscal year may be used by States for*
 24 *administrative costs.*

1 **SEC. 10. RAPID RESPONSE CAPABILITY TO NOXIOUS**
 2 **WEEDS.**

3 (a) *ESTABLISHMENT.*—*At the request of the Governor*
 4 *of a State, the Secretary may provide financial assistance*
 5 *to weed management entities through that State to enable*
 6 *a rapid response to outbreaks of noxious weeds that are at*
 7 *a stage at which rapid eradication or control is possible*
 8 *and to ensure eradication or immediate control of the nox-*
 9 *ious weeds.*

10 (b) *REQUIREMENTS FOR ASSISTANCE.*—*Assistance*
 11 *may be provided under this section only if—*

12 (1) *there is a demonstrated need for the assist-*
 13 *ance;*

14 (2) *the noxious weed is considered to be an im-*
 15 *mediate threat to native fish, wildlife, or their habi-*
 16 *tats, as determined by the Secretary;*

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

19 (4) *the proposed response to such threat—*

20 (A) *is technically feasible;*

21 (B) *economically responsible; and*

22 (C) *minimizes adverse impacts to the struc-*
 23 *ture and function of an ecosystem and adverse*
 24 *effects on nontarget species and ecosystems.*

25 (c) *AMOUNT OF FINANCIAL ASSISTANCE.*—*The Sec-*
 26 *retary shall determine the amount of financial assistance*

1 *to be provided under this section, subject to the availability*
2 *of appropriations.*

3 *(d) COST SHARE.—The Federal share of the cost of any*
4 *project carried out with assistance under this section may*
5 *be up to 100 percent.*

6 *(e) REPORTING.—The Secretary shall require that*
7 *weed management entities receiving assistance under this*
8 *section report on activities carried out with such assistance*
9 *in the same manner required pursuant to section 5(a)(1).*

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