

106TH CONGRESS
1ST SESSION

H. R. 2962

To provide for the issuance of a promotion, research, and information order applicable to certain handlers of Hass avocados.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 1999

Mr. CALVERT (for himself, Mr. CONDIT, Mr. PACKARD, Mr. HUNTER, Mrs. CAPPS, Mr. CUNNINGHAM, Mrs. BONO, Mr. WAXMAN, Mr. LEWIS of California, Mr. RADANOVICH, Mr. GALLEGLY, Mr. KUYKENDALL, Mr. DOOLITTLE, Mr. GARY MILLER of California, Mr. FILNER, Mr. BILBRAY, Mr. MATSUI, Mrs. NAPOLITANO, Ms. SANCHEZ, Mr. DOOLEY of California, Ms. WOOLSEY, Mr. HORN, Mr. CAMPBELL, Mr. DREIER, Mr. THOMAS, Mr. THOMPSON of California, Mr. FARR of California, Mr. BECERRA, Mr. McKEON, Mr. OSE, Mr. HERGER, Mr. DIXON, Mr. LANTOS, Ms. ESHOO, Ms. ROYBAL-ALLARD, Mr. ROGAN, Mr. SHERMAN, Mr. BERMAN, Ms. LOFGREN, Ms. PELOSI, and Ms. LEE) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To provide for the issuance of a promotion, research, and information order applicable to certain handlers of Hass avocados.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Hass Avocado Promotion, Research, and Information
4 Act of 1999”.

5 (b) TABLE OF CONTENTS.—The table of contents of
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and declaration of policy.
- Sec. 3. Definitions.
- Sec. 4. Issuance of orders.
- Sec. 5. Required terms in orders.
- Sec. 6. Referenda.
- Sec. 7. Petition and review.
- Sec. 8. Enforcement.
- Sec. 9. Investigations and power to subpoena.
- Sec. 10. Confidentiality.
- Sec. 11. Authority for Secretary to suspend or terminate order.
- Sec. 12. Construction.
- Sec. 13. Regulations.
- Sec. 14. Authorization of appropriations.

7 **SEC. 2. FINDINGS AND DECLARATION OF POLICY.**

8 (a) FINDINGS.—Congress finds the following:

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

14 (2) Hass avocados are a significant tree fruit
15 crop grown by many individual producers, but vir-
16 tually all domestically produced Hass avocados for
17 the commercial market are grown in the State of
18 California.

1 (3) Hass avocados move in interstate and for-
2 eign commerce, and Hass avocados that do not move
3 in interstate or foreign channels of commerce but
4 only in intrastate commerce directly affect interstate
5 commerce in Hass avocados.

6 (4) In recent years, large quantities of Hass av-
7 ocados have been imported into the United States
8 from other countries.

9 (5) The maintenance and expansion of markets
10 in existence on the date of enactment of this Act,
11 and the development of new or improved markets or
12 uses for Hass avocados are needed to preserve and
13 strengthen the economic viability of the domestic
14 Hass avocado industry for the benefit of producers
15 and other persons associated with the producing,
16 marketing, processing, and consuming of Hass avo-
17 cados.

18 (6) An effective and coordinated program of
19 promotion, research, and consumer information re-
20 garding Hass avocados is necessary for the mainte-
21 nance, expansion, and development of markets for
22 Hass avocados.

23 (b) PURPOSE.—It is the purpose of this Act to au-
24 thorize the establishment, through the exercise of the pow-
25 ers provided in this Act, of an orderly procedure for the

1 development and financing (through an adequate assess-
2 ment on Hass avocados sold by producers and importers
3 in the United States) of an effective and coordinated pro-
4 gram of promotion, research, and consumer information,
5 including funds for marketing and market research activi-
6 ties, that is designed to—

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

9 (2) maintain, develop, and expand markets and
10 uses for Hass avocados.

11 (c) LIMITATION.—Nothing in this Act may be con-
12 strued to provide for the control of production or otherwise
13 limit the right of any person to produce, handle, or import
14 Hass avocados.

15 **SEC. 3. DEFINITIONS.**

16 As used in this Act:

17 (1) BOARD.—The terms “Avocado Board” and
18 “Board” mean the Hass Avocado Board established
19 under section 5.

20 (2) CONSUMER INFORMATION.—The term “con-
21 sumer information” means any action or program
22 that provides information to consumers and other
23 persons on the use, nutritional attributes, and other
24 information that will assist consumers and other
25 persons in making evaluations and decisions regard-

1 ing the purchase, preparation, and use of Hass avo-
2 cados.

3 (3) CUSTOMS.—The term “Customs” means
4 the United States Customs Service.

5 (4) DEPARTMENT.—The term “Department”
6 means the United States Department of Agriculture.

7 (5) HASS AVOCADO.—

8 (A) IN GENERAL.—The term “Hass avo-
9 cado” includes—

10 (i) the fruit of any Hass variety avo-
11 cado tree; and

12 (ii) any other type of avocado fruit
13 that the Board determines is so similar to
14 the Hass variety avocado as to be indistin-
15 guishable to consumers.

16 (B) FORM OF FRUIT.—Except as provided
17 in subparagraph (C), the term includes avocado
18 fruit described in subparagraph (A) whether in
19 fresh, frozen, or any other processed form.

20 (C) EXCEPTIONS.—In any case in which a
21 handler further processes avocados described in
22 subparagraph (A), or products of such avoca-
23 dos, for sale to a retailer, the Board may deter-
24 mine that such further processed products do
25 not constitute a substantial value of the product

1 and that, based on its determination, the prod-
2 uct shall not be treated as a product of Hass
3 avocados subject to assessment under the order.
4 In addition, the Board may exempt certain fro-
5 zen avocado products from assessment under
6 the order.

7 (6) HANDLER.—

8 (A) QUALIFIED HANDLER.—The term
9 “qualified handler” means a person operating
10 in the Hass avocados marketing system that
11 sells domestic or imported Hass avocados for
12 United States domestic consumption, and who
13 is responsible for remitting assessments to the
14 Board. The term includes an importer or pro-
15 ducer who sells directly to consumers Hass avo-
16 cados that the importer or producer has im-
17 ported into the United States or produced, re-
18 spectively.

19 (B) EXEMPT HANDLER.—The term “ex-
20 empt handler” means a person who would oth-
21 erwise be considered a qualified handler, except
22 that all avocados purchased by the person have
23 already been subject to the assessment for the
24 Board.

1 (7) IMPORTER.—The term “importer” means
2 any person who imports Hass avocados into the
3 United States.

4 (8) INDUSTRY INFORMATION.—The term “in-
5 dustry information” means information and pro-
6 grams that are designed to increase efficiency in
7 processing, enhance the development of new markets
8 and marketing strategies, increase marketing effi-
9 ciency, and activities to enhance the image of Hass
10 avocados and the Hass avocado industry domesti-
11 cally and internationally.

12 (9) ORDER.—The term “order” means the
13 Hass avocado promotion, research, and information
14 order issued under this Act.

15 (10) PERSON.—The term “person” means any
16 individual, group of individuals, firm, partnership,
17 corporation, joint stock company, association, coop-
18 erative, or other legal entity.

19 (11) PRODUCER.—The term “producer” means
20 any person who—

21 (A) is engaged in the domestic production
22 of Hass avocados for commercial use; and

23 (B) owns, or shares the ownership and risk
24 of loss, of such Hass avocados.

1 (12) PROMOTION.—The term “promotion”
2 means any action to advance the image, desirability,
3 or marketability of Hass avocados, including paid
4 advertising, sales promotion, and publicity, in order
5 to improve the competitive position and stimulate
6 sales of Hass avocados in the marketplace.

7 (13) RESEARCH.—The term “research” means
8 any type of test, study, or analysis relating to mar-
9 ket research, market development, and marketing ef-
10 forts, or relating to the use, quality, or nutritional
11 value of Hass avocados, other related food science
12 research, or research designed to advance the image,
13 desirability, and marketability of Hass avocados.

14 (14) SECRETARY.—The term “Secretary”
15 means the Secretary of Agriculture.

16 (15) STATE.—The term “State” means each of
17 the several States of the United States, the District
18 of Columbia, the Commonwealth of Puerto Rico, the
19 Commonwealth of the Northern Mariana Islands,
20 the United States Virgin Islands, Guam, American
21 Samoa, the Republic of the Marshall Islands, and
22 the Federated States of Micronesia.

23 (16) UNITED STATES.—The term “United
24 States” means the United States collectively.

1 **SEC. 4. ISSUANCE OF ORDERS.**

2 (a) IN GENERAL.—

3 (1) ISSUANCE.—To effectuate the policy of this
4 Act specified in section 2(b), the Secretary, subject
5 to the procedures provided in subsection (b), shall
6 issue orders under this Act applicable to producers,
7 importers, and qualified handlers of Hass avocados.

8 (2) SCOPE.—Any order shall be national in
9 scope.

10 (3) ONE ORDER.—Not more than one order
11 shall be in effect at any one time.

12 (b) PROCEDURES.—

13 (1) PROPOSAL FOR AN ORDER.—An existing or-
14 ganization of avocado producers established pursu-
15 ant to a State statute, or any other person who will
16 be affected by this Act, may request the issuance of,
17 and submit a proposal for an order.

18 (2) PUBLICATION OF PROPOSAL.—The Sec-
19 retary shall publish a proposed order and give notice
20 and opportunity for public comment on the proposed
21 order not later than 60 days after receipt by the
22 Secretary of a proposal for an order from an exist-
23 ing organization of avocado producers established
24 pursuant to a State statute, as provided in para-
25 graph (1).

26 (3) ISSUANCE OF ORDER.—

1 (A) IN GENERAL.—After notice and oppor-
2 tunity for public comment are provided in ac-
3 cordance with paragraph (2), the Secretary
4 shall issue the order, taking into consideration
5 the comments received and including in the
6 order such provisions as are necessary to ensure
7 that the order is in conformity with this Act.

8 (B) EFFECTIVE DATE.—The order shall be
9 issued and become effective only after an af-
10 firmative vote in a referendum as provided in
11 section 6, but not later than 180 days after
12 publication of the proposed order.

13 (c) AMENDMENTS.—The Secretary, from time to
14 time, may amend an order. The provisions of this Act ap-
15 plicable to an order shall be applicable to any amendment
16 to an order.

17 **SEC. 5. REQUIRED TERMS IN ORDERS.**

18 (a) IN GENERAL.—An order shall contain the terms
19 and provisions specified in this section.

20 (b) HASS AVOCADO BOARD.—

21 (1) ESTABLISHMENT AND MEMBERSHIP.—

22 (A) ESTABLISHMENT.—The order shall
23 provide for the establishment of a Hass Avocado Board, consisting of 11 members, to ad-
24 minister the order.
25

1 (B) MEMBERSHIP.—

2 (i) APPOINTMENT.—The order shall
3 provide that members of the Board shall
4 be appointed by the Secretary from nomi-
5 nations submitted as provided in this sub-
6 section.

7 (ii) COMPOSITION.—The Board shall
8 consist of participating domestic producers
9 and importers.

10 (2) DISTRIBUTION OF APPOINTMENTS.—

11 (A) IN GENERAL.—The order shall provide
12 that the membership of the Board shall consist
13 of—

14 (i) 7 members who are domestic pro-
15 ducers of Hass avocados and are subject to
16 assessments under the order;

17 (ii) 2 members representing importers
18 that are qualified handlers of Hass avoca-
19 dos; and

20 (iii) 2 members who are domestic pro-
21 ducers of Hass avocados and are subject to
22 assessments under the order or are import-
23 ers that are qualified handlers, to reflect
24 the proportion of domestic production and
25 imports supplying the United States mar-

1 ket, which shall be based on the Sec-
2 retary's determination of the average vol-
3 ume of domestic production proportionate
4 to the average volume of imports in the
5 United States market over the previous
6 three years.

7 (B) ADJUSTMENT IN BOARD REPRESENTA-
8 TION.—Three years after the assessment of
9 funds commences pursuant to an order, and at
10 the end of each three-year period thereafter, the
11 Avocado Board shall adjust the proportion of
12 producer representatives to importer represent-
13 atives on the Board under subparagraph
14 (A)(iii) on the basis of the amount of assess-
15 ments collected from producers and importers
16 over the immediately preceding three-year pe-
17 riod. Any adjustment under this subparagraph
18 shall be subject to the review and approval of
19 the Secretary.

20 (C) DEFINITION.—In this paragraph, the
21 term “importer that is a qualified handler”
22 means an entity whose principal activity is the
23 importation, sale, and marketing of Hass avoca-
24 dos in the United States (either directly or as
25 an agent, broker, or consignee of any person or

1 nation that produces or handles Hass avocados
2 outside the United States for sale in the United
3 States), and who is subject to assessments as a
4 qualified handler under the order.

5 (3) NOMINATION PROCESS.—The order shall
6 provide that—

7 (A) 2 nominees shall be submitted for each
8 appointment to the Board;

9 (B) nominations for each appointment of a
10 producer or an importer shall be made by do-
11 mestic producers or importers, respectively—

12 (i) in the case of producers, through
13 an election process which utilizes existing
14 organizations of avocado producers estab-
15 lished pursuant to a State statute, with ap-
16 proval by the Secretary; and

17 (ii) in the case of importers, nomina-
18 tions are submitted by importers under
19 such procedures as the Secretary deter-
20 mines appropriate; and

21 (C) in any case in which producers that
22 are qualified handlers or importers that are
23 qualified handlers fail to nominate individuals
24 for an appointment to the Board, the Secretary
25 may appoint an individual to fill the vacancy on

1 a basis provided in the order or other regula-
2 tions of the Secretary.

3 (4) ALTERNATES.—The order shall provide for
4 the selection of alternate members of the Board by
5 the Secretary in accordance with procedures speci-
6 fied in the order.

7 (5) TERMS.—The order shall provide that—

8 (A) each term of appointment to the Board
9 shall be for 3 years, except that, of the initial
10 appointments, 4 of the appointments shall be
11 for 2-year terms, 4 of the appointments shall be
12 for 3-year terms, and 3 of the appointments
13 shall be for 4-year terms; and

14 (B) no member of the Board may serve
15 more than 2 consecutive terms of three years,
16 except that any member serving an initial term
17 of 4 years may serve an additional term of 3
18 years.

19 (6) REPLACEMENT.—The order shall provide
20 that if a member or alternate of the Board who was
21 appointed as a domestic producer or importer that
22 is a qualified handler ceases to belong to the group
23 for which such member was appointed, such member
24 or alternate shall be disqualified from serving on the
25 Board.

1 (7) COMPENSATION.—The order shall provide
2 that members of the Board shall serve without com-
3 pensation, but shall be reimbursed for the reasonable
4 expenses of the members incurred in performing du-
5 ties as members of the Board.

6 (c) GENERAL RESPONSIBILITIES OF THE AVOCADO
7 BOARD.—The order shall define the general responsibil-
8 ities of the Avocado Board, which shall include the respon-
9 sibility to—

10 (1) administer the order in accordance with the
11 terms and provisions of the order;

12 (2) recommend to the Secretary rules and regu-
13 lations to effectuate the terms and provisions of the
14 order;

15 (3) employ such persons as the Board deter-
16 mines are necessary, and set the compensation and
17 define the duties of the persons;

18 (4)(A) develop budgets for the implementation
19 of the order and submit the budgets to the Secretary
20 for approval under subsection (d); and

21 (B) propose and develop (or receive and evalu-
22 ate), approve, and submit to the Secretary for ap-
23 proval under subsection (d) plans or projects for
24 Hass avocado promotion, industry information, con-
25 sumer information, or related research;

1 (5)(A) implement plans and projects for Hass
2 avocado promotion, industry information, consumer
3 information, or related research, as provided in sub-
4 section (d); or

5 (B) contract or enter into agreements with ap-
6 propriate persons to implement the plans and
7 projects, as provided in subsection (e), and pay the
8 costs of the implementation, or contracts and agree-
9 ment, with funds received under the order;

10 (6) evaluate on-going and completed plans and
11 projects for Hass avocados and avocado products
12 promotion, industry information, consumer informa-
13 tion, or related research;

14 (7) receive, investigate, and report to the Sec-
15 retary complaints of violations of the order;

16 (8) recommend to the Secretary amendments to
17 the order;

18 (9) invest, pending disbursement under a plan
19 or project, funds collected through assessments au-
20 thorized under this Act only in—

21 (A) obligations of the United States or any
22 agency of the United States;

23 (B) general obligations of any State or any
24 political subdivision of a State;

1 (C) any interest-bearing account or certifi-
2 cate of deposit of a bank that is a member of
3 the Federal Reserve System; or

4 (D) obligations fully guaranteed as to prin-
5 cipal and interest by the United States, except
6 that income from any such invested funds may
7 be used only for a purpose for which the in-
8 vested funds may be used;

9 (10) borrow funds necessary for the startup ex-
10 penses of the order; and

11 (11) provide the Secretary such information as
12 the Secretary may require.

13 (d) BUDGETS; PLANS AND PROJECTS.—

14 (1) SUBMISSION OF BUDGETS.—The order shall
15 require the Board to submit to the Secretary for ap-
16 proval budgets, on a fiscal year basis, of the antici-
17 pated expenses and disbursements of the Board in
18 the implementation of the order, including the pro-
19 jected costs of Hass avocado promotion, industry in-
20 formation, consumer information, and related re-
21 search plans and projects.

22 (2) PLANS AND PROJECTS.—

23 (A) PROMOTION AND CONSUMER INFORMA-
24 TION.—The order shall provide—

1 (i) for the establishment, implementa-
2 tion, administration, and evaluation of ap-
3 propriate plans and projects for adver-
4 tising, sales promotion, other promotion,
5 and consumer information with respect to
6 Hass avocados, and for the disbursement
7 of necessary funds for the purposes de-
8 scribed in this clause; and

9 (ii) that any plan or project referred
10 to in clause (i) shall be directed toward in-
11 creasing the general demand for Hass avo-
12 cados.

13 (B) INDUSTRY INFORMATION.—The order
14 shall provide for the establishment, implementa-
15 tion, administration, and evaluation of appro-
16 priate plans and projects that will lead to the
17 development of new markets, new marketing
18 strategies, or increased efficiency of the Hass
19 avocado industry, and activities to enhance the
20 image of the Hass avocado industry, and for
21 the disbursement of necessary funds for the
22 purposes described in this subparagraph.

23 (C) RESEARCH.—The order shall provide
24 for—

1 (i) the establishment, implementation,
2 administration, and evaluation of plans
3 and projects for market development re-
4 search, research with respect to the sale,
5 distribution, marketing, use, quality, or
6 nutritional value of Hass avocados, and
7 other research with respect to Hass avo-
8 cado marketing, promotion, or consumer
9 information;

10 (ii) the dissemination of the informa-
11 tion acquired through the plans and
12 projects; and

13 (iii) the disbursement of such funds as
14 are necessary to carry out this subpara-
15 graph.

16 (D) SUBMISSION TO THE SECRETARY.—

17 The order shall provide that the Board shall
18 submit to the Secretary for approval a proposed
19 plan or project for Hass avocados promotion,
20 industry information, consumer information, or
21 related research, as described in subparagraphs
22 (A) and (B).

23 (3) APPROVAL BY SECRETARY.—A budget,
24 plan, or project for Hass avocados promotion, indus-
25 try information, consumer information, or related re-

1 search may not be implemented prior to approval of
2 the budget, plan, or project by the Secretary.

3 (e) CONTRACTS AND AGREEMENTS.—

4 (1) PROMOTION, CONSUMER INFORMATION, IN-
5 DUSTRY INFORMATION AND RELATED RESEARCH
6 PLANS AND PROJECTS.—

7 (A) IN GENERAL.—To ensure the efficient
8 use of funds, the order shall provide that the
9 Board, with the approval of the Secretary, shall
10 enter into a contract or an agreement with an
11 avocado organization established by State stat-
12 ute in a State with the majority of Hass avo-
13 cado production in the United States, for the
14 implementation of a plan or project for pro-
15 motion, industry information, consumer infor-
16 mation, or related research with respect to
17 Hass avocados, and for the payment of the cost
18 of the contract or agreement with funds re-
19 ceived by the Board under the order.

20 (B) REQUIREMENTS.—The order shall pro-
21 vide that any contract or agreement entered
22 into under this paragraph shall provide that—

23 (i) the contracting or agreeing party
24 shall develop and submit to the Board a
25 plan or project, together with a budget

1 that includes the estimated costs to be in-
2 curred for the plan or project;

3 (ii) the plan or project shall become
4 effective on the approval of the Secretary;
5 and

6 (iii) the contracting party or agreeing
7 party shall—

8 (I) keep accurate records of all
9 transactions of the party;

10 (II) account for funds received
11 and expended;

12 (III) make periodic reports to the
13 Board of activities conducted; and

14 (IV) make such other reports as
15 the Board or the Secretary shall re-
16 quire.

17 (2) OTHER CONTRACTS AND AGREEMENTS.—

18 The order shall provide that the Board, with the ap-
19 proval of the Secretary, may enter into a contract or
20 agreement for administrative services. Any contract
21 or agreement entered into under this paragraph
22 shall include provisions comparable to the provisions
23 described in paragraph (1)(B).

24 (f) BOOKS AND RECORDS OF BOARD.—

1 (1) IN GENERAL.—The order shall require the
2 Board to—

3 (A) maintain such books and records
4 (which shall be available to the Secretary for in-
5 spection and audit) as the Secretary may re-
6 quire;

7 (B) prepare and submit to the Secretary,
8 from time to time, such reports as the Sec-
9 retary may require; and

10 (C) account for the receipt and disburse-
11 ment of all the funds entrusted to the Board.

12 (2) AUDITS.—The Board shall cause the books
13 and records of the Board to be audited by an inde-
14 pendent auditor at the end of each fiscal year. A re-
15 port of each audit shall be submitted to the Sec-
16 retary.

17 (g) CONTROL OF ADMINISTRATIVE COSTS.—The
18 order shall provide that the Board shall, as soon as prac-
19 ticable after the order becomes effective and after con-
20 sultation with the Secretary and other appropriate per-
21 sons, implement a system of cost controls based on nor-
22 mally accepted business practices that will ensure that the
23 annual budgets of the Board include only amounts for ad-
24 ministrative expenses that cover the minimum administra-
25 tive activities and personnel needed to properly administer

1 and enforce the order, and conduct, supervise, and evalu-
 2 ate plans and projects under the order. The Board shall
 3 use, to the extent possible, the resources, staffs, and facili-
 4 ties of existing organizations, as provided in subsection
 5 (e)(1)(A).

6 (h) ASSESSMENTS.—

7 (1) AUTHORITY.—

8 (A) IN GENERAL.—The order shall provide
 9 that each qualified handler shall remit to the
 10 Board, in the manner provided in the order, an
 11 assessment collected from the producer, except
 12 to the extent that the sale is excluded from as-
 13 sessments under paragraph (6). In the case of
 14 imports, the assessment shall be levied upon im-
 15 ports and remitted to the Board by Customs.

16 (B) PUBLISHED LISTS.—To facilitate the
 17 payment of assessments under this paragraph,
 18 the Board shall publish lists of qualified han-
 19 dlers required to remit assessments under the
 20 order and exempt handlers.

21 (C) MAKING DETERMINATIONS.—

22 (i) QUALIFIED HANDLER STATUS.—
 23 The order shall contain provisions regard-
 24 ing the determination of the status of a
 25 person as a qualified handler or exempt

1 handler that include the rules and require-
2 ments specified in section 3(j).

3 (ii) PRODUCER-HANDLERS.—For pur-
4 poses of paragraph (3), a producer-handler
5 shall be considered the qualified handler of
6 Hass avocados produced by such producer-
7 handler. The qualified handler shall be the
8 first person who packs the avocados for
9 sale at wholesale or retail.

10 (iii) IMPORTERS.—The assessment on
11 imported Hass avocados shall be paid by
12 the importer at the time of entry into the
13 United States and shall be remitted to the
14 Board. Importation occurs when Hass avo-
15 cados originating outside the United States
16 are released from custody of the United
17 States Customs Service and introduced
18 into the stream of commerce within the
19 United States. Importers include persons
20 who hold title to foreign-produced Hass avo-
21 cados immediately upon release by the
22 Customs Service, as well as any persons
23 who act on behalf of others, as agents or
24 brokers, to secure the release of Hass avo-
25 cados from Customs and the introduction

1 of the released Hass avocados into the cur-
2 rent of commerce.

3 (2) ASSESSMENT RATES.—With respect to as-
4 sessment rates, the order shall contain the following
5 terms:

6 (A) INITIAL RATE.—The rate of assess-
7 ment on Hass avocados shall be \$.025 per
8 pound.

9 (B) CHANGES IN THE RATE.—

10 (i) IN GENERAL.—Once the order in
11 is effect, the uniform assessment rate may
12 be increased or decreased not more than
13 once annually, but in no event shall the
14 rate of assessment be in excess of \$.05 per
15 pound.

16 (ii) REQUIREMENTS.—Any change in
17 the rate of assessment under this
18 subparagraph—

19 (I) may be made only if adopted
20 by the Board by an affirmative vote of
21 at least seven members of the Board
22 and approved by the Secretary as nec-
23 essary to achieve the objectives of this
24 Act (after public notice and oppor-
25 tunity for comment in accordance

1 with section 553 of title 5, United
2 States Code, and without regard to
3 sections 556 and 557 of such title);

4 (II) shall be announced by the
5 Board not less than 30 days prior to
6 going into effect; and

7 (III) shall not be subject to a
8 vote in a referendum conducted under
9 section 6.

10 (3) COLLECTION BY QUALIFIED HANDLERS.—

11 Except as provided in paragraph (1)(C)(iii), the
12 qualified handler of Hass avocados shall—

13 (A) be responsible for the collection from
14 the producer of assessments under this sub-
15 section; and

16 (B) maintain a separate record of the
17 Hass avocados of each producer whose Hass avo-
18 cados are so handled, including the Hass avo-
19 cados owned by the handlers.

20 (4) TIMING OF SUBMITTING ASSESSMENTS.—

21 The order shall provide that each person required to
22 remit assessments under this subsection shall remit
23 to the Board the assessment due from each sale of
24 Hass avocados that is subject to an assessment with-
25 in such time period after the sale (not to exceed 60

1 days after the end of the month in which the sale
2 took place) as is specified in the order.

3 (5) CLAIMING AN EXEMPTION FROM ASSESS-
4 MENTS.—To claim an exemption under section 3(6)
5 as an exempt handler for a particular fiscal year, a
6 person shall submit an application to the Board—

7 (A) stating the basis for such exemption;

8 and

9 (B) certifying such person will not pur-
10 chase Hass avocados in the United States on
11 which an assessment has not been paid for the
12 current fiscal year.

13 (6) EXCLUSION.—An order shall exclude from
14 assessments under the order any sale of Hass avoca-
15 dos for export from the United States.

16 (7) USE OF ASSESSMENT FUNDS.—The order
17 shall provide that assessment funds shall be used for
18 payment of costs incurred in implementing and ad-
19 ministering the order, with provision for a reason-
20 able reserve, and to cover the administrative costs
21 incurred by the Secretary in implementing and ad-
22 ministering this Act, including any expenses in-
23 curred by the Secretary in conducting referenda
24 under this Act, subject to subsection (i).

1 (8) ASSESSMENT FUNDS FOR STATE ASSOCIA-
 2 TION.—The order shall provide that a State associa-
 3 tion shall receive an amount equal to the product ob-
 4 tained by multiplying the aggregate amount of as-
 5 sessments attributable to the pounds of Hass avoca-
 6 dos produced in such State by 85 percent. A State
 7 association shall use such funds and any proceeds
 8 from the investment of such funds for financing—

9 (A) promotion, research, consumer infor-
 10 mation, and industry information plans and
 11 projects; and

12 (B) administrative expenses incurred in
 13 connection with such plans and projects.

14 (i) REIMBURSEMENT OF SECRETARY EXPENSES.—
 15 The order shall provide for reimbursing the Secretary—

16 (1) for expenses not to exceed \$75,000 incurred
 17 by the Secretary in connection with any referendum
 18 conducted under section 6; and

19 (2) for administrative costs incurred by the Sec-
 20 retary for supervisory work of up to 2 employee
 21 years after an order or amendment to any order has
 22 been issued and made effective.

23 (j) PROHIBITION ON BRAND ADVERTISING AND CER-
 24 TAIN CLAIMS.—

1 (1) PROHIBITIONS.—Except as provided in
2 paragraph (2), a program or project conducted
3 under this Act shall not—

4 (A) make any reference to private brand
5 names;

6 (B) make false, misleading, or disparaging
7 claims on behalf of Hass avocados; or

8 (C) make false, misleading, or disparaging
9 statements with respect to the attributes or use
10 of any competing products.

11 (2) EXCEPTIONS.—Paragraph (1) does not pre-
12 clude the Board from offering its programs and
13 projects for use by commercial parties, under such
14 terms and conditions as the Board may prescribe as
15 approved by the Secretary. For the purposes of this
16 subsection, a reference to State of origin does not
17 constitute a reference to a private brand name.

18 (k) PROHIBITION ON USE OF FUNDS TO INFLUENCE
19 GOVERNMENTAL ACTION.—

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided in paragraph (2), the order shall prohibit any
22 funds collected by the Board under the order from
23 being used in any manner for the purpose of influ-
24 encing legislation or government action or policy.

1 (2) EXCEPTION.—Paragraph (1) shall not
2 apply to the development or recommendation of
3 amendments to the order.

4 (l) BOOKS AND RECORDS; REPORTS.—

5 (1) IN GENERAL.—The order shall provide that
6 each qualified handler, producer, and importer sub-
7 ject to the order shall maintain, and make available
8 for inspection, such books and records as are re-
9 quired by the order and file reports at the time, in
10 the manner, and having the content required by the
11 order, to the end that such information is made
12 available to the Secretary and the Board as is ap-
13 propriate for the administration or enforcement of
14 this Act, the order, or any regulation issued under
15 this Act.

16 (2) CONFIDENTIALITY REQUIREMENT.—

17 (A) IN GENERAL.—Information obtained
18 from books, records, or reports under para-
19 graph (1) shall be kept confidential by all offi-
20 cers and employees of the Department of Agri-
21 culture and by the staff and agents of the
22 Board.

23 (B) SUITS AND HEARINGS.—Information
24 described in subparagraph (A) may be disclosed
25 to the public only—

1 (i) in a suit or administrative hearing
2 brought at the request of the Secretary, or
3 to which the Secretary or any officer of the
4 United States is a party, involving the
5 order; and

6 (ii) to the extent the Secretary con-
7 sideres the information relevant to the suit
8 or hearing.

9 (C) GENERAL STATEMENTS AND PUBLICA-
10 TIONS.—Nothing in this paragraph may be con-
11 strued to prohibit—

12 (i) the issuance of general statements,
13 based on the reports, of the number of per-
14 sons subject to the order or statistical data
15 collected from the reports, if the state-
16 ments do not identify the information fur-
17 nished by any person; or

18 (ii) the publication, by direction of the
19 Secretary, of the name of any person who
20 violates the order, together with a state-
21 ment of the particular provisions of the
22 order violated by the person.

23 (3) LISTS OF IMPORTERS.—

24 (A) REVIEW.—The order shall provide that
25 the staff of the Board shall periodically review

1 lists of importers of Hass avocados to deter-
2 mine whether persons on the lists are subject to
3 the order.

4 (B) CUSTOMS SERVICE.—On the request of
5 the Secretary or the Board, the Commissioner
6 of the United States Customs Service shall pro-
7 vide to the Secretary or the Board lists of im-
8 porters of Hass avocados.

9 (m) CONSULTATIONS WITH INDUSTRY EXPERTS.—

10 (1) IN GENERAL.—The order shall provide that
11 the Board may seek advice from and consult with
12 experts from the production, import, wholesale, and
13 retail segments of the Hass avocado industry to as-
14 sist in the development of promotion, industry infor-
15 mation, consumer information, and related research
16 plans and projects.

17 (2) SPECIAL COMMITTEES.—

18 (A) IN GENERAL.—For the purposes de-
19 scribed in paragraph (1), the order shall au-
20 thorize the appointment of special committees
21 composed of persons other than Board mem-
22 bers.

23 (B) CONSULTATION.—A committee ap-
24 pointed under subparagraph (A)—

1 (i) may not provide advice or rec-
2 ommendations to a representative of an
3 agency, or an officer, of the Federal Gov-
4 ernment; and

5 (ii) shall consult directly with the
6 Board.

7 (n) OTHER TERMS OF THE ORDER.—The order shall
8 contain such other terms and provisions, consistent with
9 this Act, as are necessary to carry out this Act (including
10 provision for the assessment of interest and a charge for
11 each late payment of assessments under subsection (h)).

12 **SEC. 6. REFERENDA.**

13 (a) REQUIREMENTS FOR INITIAL REFERENDUM.—

14 (1) REFERENDUM REQUIRED.—During the 60-
15 day period immediately preceding the proposed effec-
16 tive date of an order issued under section 4(b)(3),
17 the Secretary shall conduct a referendum among
18 qualified producers and importers required to pay
19 assessments under the order, as provided in section
20 5(h)(1).

21 (2) APPROVAL OF ORDER NEEDED.—The order
22 shall become effective only if the Secretary deter-
23 mines that the order has been approved by a simple
24 majority of all votes cast in the referendum.

25 (b) VOTES PERMITTED.—

1 (1) IN GENERAL.—Each qualified producer and
2 importer eligible to vote in a referendum conducted
3 under this section shall be entitled to cast 1 vote if
4 they satisfy the eligibility requirements as defined in
5 paragraph (2).

6 (2) ELIGIBILITY.—For purposes of paragraph
7 (1), producers and importers, as these terms are de-
8 fined in section 3, shall be considered to be eligible
9 to vote if they have been producers or importers
10 with sales of Hass avocados during a period of at
11 least 1 year prior to the referendum.

12 (c) MANNER OF CONDUCTING REFERENDA.—

13 (1) IN GENERAL.—Referenda conducted pursu-
14 ant to this Act shall be conducted in a manner de-
15 termined by the Secretary.

16 (2) ADVANCE REGISTRATION.—A qualified pro-
17 ducer or importer of Hass avocados who chooses to
18 vote in any referendum conducted under this Act
19 shall register with the Secretary prior to the voting
20 period, after receiving notice from the Secretary con-
21 cerning the referendum under paragraph (4).

22 (3) VOTING.—A qualified producer or importer
23 of Hass avocados who chooses to vote in any ref-
24 erendum conducted under this Act shall vote in ac-
25 cordance with procedures established by the Sec-

1 retary. The ballots and other information or reports
2 that reveal or tend to reveal the vote of any qualified
3 handler shall be strictly confidential.

4 (4) NOTICE.—The Secretary shall notify all
5 qualified producers and importers at least 30 days
6 prior to the referendum conducted under this Act.
7 The notice shall explain the procedure established
8 under this subsection.

9 (d) SUSPENSION OR TERMINATION REFERENDA.—If
10 an order is approved in a referendum conducted under
11 subsection (a), effective beginning on the date that is 3
12 years after the date of the approval, the Secretary—

13 (1) at the discretion of the Secretary, may con-
14 duct at any time a referendum of qualified producers
15 and importers required to pay assessments under
16 the order, as provided in section 5(h)(1), subject to
17 the voting requirements of subsection (b), to ascer-
18 tain whether qualified producers and importers favor
19 suspension or termination of the order; and

20 (2) if requested by the Board or by a represent-
21 ative group comprising 30 percent or more of all
22 qualified producers and importers required to pay
23 assessments under the order, as provided in section
24 5(h)(1), subject to the voting requirements of sub-
25 sections (c) and (d), to ascertain whether producers

1 and importers favor suspension or termination of the
2 order.

3 (e) SUSPENSION OR TERMINATION.—If, as a result
4 of a referendum conducted under subsection (d), the Sec-
5 retary determines that suspension or termination of the
6 order is favored by a simple majority of all votes cast in
7 the referendum, the Secretary shall—

8 (1) not later than 180 days after the ref-
9 erendum, suspend or terminate, as appropriate, col-
10 lection of assessments under the order; and

11 (2) suspend or terminate, as appropriate, activi-
12 ties under the order as soon as practicable and in
13 an orderly manner.

14 **SEC. 7. PETITION AND REVIEW.**

15 (a) PETITION AND HEARING.—

16 (1) PETITION.—A person subject to an order
17 may file with the Secretary a petition—

18 (A) stating that the order, any provision of
19 the order, or any obligation imposed in connec-
20 tion with the order is not in accordance with
21 law; and

22 (B) requesting a modification of the order
23 or an exemption from the order.

24 (2) HEARING.—The petitioner shall be given
25 the opportunity for a hearing on a petition filed

1 under paragraph (1), in accordance with regulations
2 issued by the Secretary. Any such hearing shall be
3 conducted in accordance with section 9(b)(2) and be
4 held within the United States judicial district in
5 which the residence or principal place of business of
6 the person is located.

7 (3) RULING.—After a hearing under paragraph
8 (2), the Secretary shall make a ruling on the peti-
9 tion, which shall be final if in accordance with law.

10 (4) LIMITATION.—Any petition filed under this
11 subsection challenging an order, any provision of the
12 order, or any obligation imposed in connection with
13 the order, shall be filed within 2 years after the ef-
14 fective date of the order, provision, or obligation
15 subject to challenge in the petition.

16 (b) REVIEW.—

17 (1) COMMENCEMENT OF ACTION.—The district
18 courts of the United States in any district in which
19 a person who is a petitioner under subsection (a) re-
20 sides or conducts business shall have jurisdiction to
21 review the ruling of the Secretary on the petition of
22 the person, if a complaint requesting the review is
23 filed no later than 20 days after the date of the
24 entry of the ruling by the Secretary.

1 (2) PROCESS.—Service of process in pro-
2 ceedings under this subsection shall be conducted in
3 accordance with the Federal Rules of Civil Proce-
4 dure.

5 (3) REMAND.—If the court in a proceeding
6 under this subsection determines that the ruling of
7 the Secretary on the petition of the person is not in
8 accordance with law, the court shall remand the
9 matter to the Secretary with directions—

10 (A) to make such ruling as the court shall
11 determine to be in accordance with law; or

12 (B) to take such further action as, in the
13 opinion the court, the law requires.

14 (c) ENFORCEMENT.—The pendency of proceedings
15 instituted under this section shall not impede, hinder, or
16 delay the Attorney General or the Secretary from obtain-
17 ing relief under section 8.

18 **SEC. 8. ENFORCEMENT.**

19 (a) JURISDICTION.—A district court of the United
20 States shall have jurisdiction to enforce, and to prevent
21 and restrain any person from violating, this Act or an
22 order or regulation issued by the Secretary under this Act.

23 (b) REFERRAL TO ATTORNEY GENERAL.—A civil ac-
24 tion brought under subsection (a) shall be referred to the
25 Attorney General for appropriate action, except that the

1 Secretary is not required to refer to the Attorney General
2 a violation of this Act, or an order or regulation issued
3 under this Act, if the Secretary believes that the adminis-
4 tration and enforcement of this Act would be adequately
5 served by administrative action under subsection (c) or
6 suitable written notice or warning to the person who com-
7 mitted or is committing the violation.

8 (c) CIVIL PENALTIES AND ORDERS.—

9 (1) CIVIL PENALTIES.—

10 (A) IN GENERAL.—A person who violates a
11 provision of this Act, or an order or regulation
12 issued by the Secretary under this Act, or who
13 fails or refuses to pay, collect, or remit any as-
14 sessment or fee required of the person under an
15 order or regulation issued under this Act, may
16 be assessed by the Secretary—

17 (i) a civil penalty of not less than
18 \$500 nor more than \$5,000 for each viola-
19 tion; and

20 (ii) in the case of a willful failure to
21 remit an assessment as required by an
22 order or regulation, an additional penalty
23 equal to the amount of the assessment.

24 (B) SEPARATE OFFENSES.—Each violation
25 shall be a separate offense.

1 (2) CEASE AND DESIST ORDERS.—In addition
2 to or in lieu of a civil penalty under paragraph (1),
3 the Secretary may issue an order requiring a person
4 to cease and desist from continuing a violation of
5 this Act, or an order or regulation issued under this
6 Act.

7 (3) NOTICE AND HEARING.—No penalty shall
8 be assessed, or cease and desist order issued, by the
9 Secretary under this subsection unless the Secretary
10 gives the person against whom the penalty is as-
11 sessed or the order is issued notice and opportunity
12 for a hearing before the Secretary with respect to
13 the violation. Any such hearing shall be conducted in
14 accordance with section 9(b)(2) and shall be held
15 within the United States judicial district in which
16 the residence or principal place of business of the
17 person is located.

18 (4) FINALITY.—The penalty assessed or cease
19 and desist order issued under this subsection shall
20 be final and conclusive unless the person against
21 whom the penalty is assessed or the order is issued
22 files an appeal with the appropriate district court of
23 the United States in accordance with subsection (d).

24 (d) REVIEW BY DISTRICT COURT.—

25 (1) COMMENCEMENT OF ACTION.—

1 (A) IN GENERAL.—Any person against
2 whom a violation is found and a civil penalty is
3 assessed or a cease and desist order is issued
4 under subsection (c) may obtain review of the
5 penalty or order by, within the 30-day period
6 beginning on the date the penalty is assessed or
7 the order is issued—

8 (i) filing a notice of appeal in the dis-
9 trict court of the United States for the dis-
10 trict in which the person resides or con-
11 ducts business, or in the United States
12 District Court for the District of Colum-
13 bia; and

14 (ii) sending a copy of the notice by
15 certified mail to the Secretary.

16 (B) COPY OF RECORD.—The Secretary
17 shall promptly file in the court a certified copy
18 of the record on which the Secretary found that
19 the person had committed a violation.

20 (2) STANDARD OF REVIEW.—A finding of the
21 Secretary shall be set aside under this subsection
22 only if the finding is found to be unsupported by
23 substantial evidence.

24 (e) FAILURE TO OBEY AN ORDER.—

1 (1) IN GENERAL.—A person who fails to obey
2 a cease and desist order issued under subsection (c)
3 after the order has become final and unappealable,
4 or after the appropriate United States district court
5 had entered a final judgment in favor of the Sec-
6 retary of not more than \$5,000 for each offense,
7 after opportunity for a hearing and for judicial re-
8 view under the procedures specified in subsections
9 (c) and (d).

10 (2) SEPARATE VIOLATIONS.—Each day during
11 which the person fails to obey an order described in
12 paragraph (1) shall be considered as a separate vio-
13 lation of the order.

14 (f) FAILURE TO PAY A PENALTY.—

15 (1) IN GENERAL.—If a person fails to pay a
16 civil penalty assessed under subsection (c) or (e)
17 after the penalty has become final and unappealable,
18 or after the appropriate United States district court
19 has entered final judgment in favor of the Secretary,
20 the Secretary shall refer the matter to the Attorney
21 General for recovery of the amount assessed in any
22 United States district court in which the person re-
23 sides or conducts business.

24 (2) SCOPE OF REVIEW.—In an action by the
25 Attorney General under paragraph (1), the validity

1 and appropriateness of a civil penalty shall not be
2 subject to review.

3 (g) ADDITIONAL REMEDIES.—The remedies provided
4 in this Act shall be in addition to, and not exclusive of,
5 other remedies that may be available.

6 **SEC. 9. INVESTIGATIONS AND POWER TO SUBPOENA.**

7 (a) INVESTIGATIONS.—The Secretary may conduct
8 such investigations as the Secretary considers necessary
9 for the effective administration of this Act, or to determine
10 whether any person has engaged or is engaging in any
11 act that constitutes a violation of this Act or any order
12 or regulation issued under this Act.

13 (b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

14 (1) INVESTIGATIONS.—For the purpose of con-
15 ducting an investigation under subsection (a), the
16 Secretary may administer oaths and affirmations,
17 subpoena witnesses, compel the attendance of wit-
18 nesses, take evidence, and require the production of
19 any records that are relevant to the inquiry. The
20 production of the records may be required from any
21 place in the United States.

22 (2) ADMINISTRATIVE HEARINGS.—For the pur-
23 pose of an administrative hearing held under section
24 7(a)(2) or 8(c)(3), the presiding officer may admin-
25 ister oaths and affirmations, subpoena witnesses,

1 compel the attendance of witnesses, take evidence,
2 and require the production of any records that are
3 relevant to the inquiry. The attendance of witnesses
4 and the production of the records may be required
5 from any place in the United States.

6 (c) AID OF COURTS.—

7 (1) IN GENERAL.—In the case of contumacy by,
8 or refusal to obey a subpoena issued under sub-
9 section (b) to, any person, the Secretary may invoke
10 the aid of any court of the United States within the
11 jurisdiction of which the investigation or proceeding
12 is conducted, or where the person resides or con-
13 ducts business, in order to enforce a subpoena issued
14 under subsection (b).

15 (2) ORDER.—The court may issue an order re-
16 quiring the person referred to in a paragraph (1) to
17 comply with a subpoena referred to in paragraph
18 (1).

19 (3) FAILURE TO OBEY.—Any failure to obey
20 the order of the court may be punished by the court
21 as a contempt of court.

22 (4) PROCESS.—Process in any proceeding
23 under this subsection may be served in the United
24 States judicial district in which the person being

1 proceeded against resides or conducts business, or
2 wherever the person may be found.

3 **SEC. 10. CONFIDENTIALITY.**

4 (a) PROHIBITION.—No information regarding names
5 of voters or how a person voted in a referendum conducted
6 under this Act shall be made public.

7 (b) PENALTY.—Any person who knowingly violates
8 subsection (a) or the confidentiality terms of an order, as
9 described in section 5(k)(2), shall be subject to a fine of
10 not less than \$1,000 nor more than \$10,000 or to impris-
11 onment for not more than 1 year, or both. If the person
12 is an officer or employee of the Department of Agriculture
13 or the Board, the person shall be removed from office.

14 (c) ADDITIONAL PROHIBITION.—No information ob-
15 tained under this Act may be made available to any agency
16 or officer of the Federal Government for any purpose
17 other than the implementation of this Act or an investiga-
18 tory or enforcement action necessary for the implementa-
19 tion of this Act.

20 (d) WITHHOLDING INFORMATION FROM CONGRESS
21 PROHIBITED.—Nothing in this Act shall be construed to
22 authorize the withholding of information from Congress.

1 **SEC. 11. AUTHORITY FOR SECRETARY TO SUSPEND OR**
2 **TERMINATE ORDER.**

3 (a) **GROUND FOR SUSPENSION OR TERMINATION.**—
4 If the Secretary finds that an order, or any provision of
5 the order, obstructs or does not tend to effectuate the pol-
6 icy of this Act specified in section 2(b), the Secretary shall
7 terminate or suspend the operation of the order or provi-
8 sion under such terms as the Secretary determines are ap-
9 propriate.

10 (b) **EFFECT OF LACK OF APPROVAL OF ORDER.**—
11 If, as a result of a referendum, the Secretary determines
12 that the order is not approved, the Secretary shall, within
13 180 days after making the determination, suspend, or ter-
14 minate, as appropriate, collection of assessments under
15 the order, and suspend or terminate, as appropriate, ac-
16 tivities under the order in an orderly manner as soon as
17 possible.

18 **SEC. 12. CONSTRUCTION.**

19 (a) **TERMINATION OR SUSPENSION NOT AN**
20 **ORDER.**—The termination or suspension of an order, or
21 a provision of an order, shall not be considered an order
22 under the meaning of this Act.

23 (b) **PRODUCER RIGHTS.**—This Act—

24 (1) may not be construed to provide for control
25 of production or otherwise limit the right of indi-

1 vidual Hass avocado growers to produce Hass avoca-
2 dos; and

3 (2) shall be construed to treat all persons pro-
4 ducing Hass avocados fairly and to implement any
5 order in an equitable manner.

6 (c) RELATIONSHIP BETWEEN SECRETARY AND
7 BOARD.—In carrying out the Secretary’s responsibilities
8 to oversee the collection and disbursement of assessment
9 funds and the operation of the program within the provi-
10 sions of this Act, no official or employee of the Depart-
11 ment shall attempt to make decisions as to the best use
12 of assessment funds or shape the program to the personal
13 preference of the official or employee. The Secretary’s re-
14 sponsibility is to ensure that the program operates in a
15 manner consistent with this Act and other applicable law.
16 The Board shall retain sole authority to structure the
17 projects and activities within the limits established by this
18 Act and the order issued pursuant to this Act, and the
19 Secretary shall not substitute its judgment to modify or
20 alter such projects and activities. The Secretary shall
21 eliminate any unnecessary regulatory costs or require-
22 ments to the industry in carrying out the Secretary’s over-
23 sight and regulatory responsibilities and shall promote the
24 most efficient use of producer and importer assessments.

1 (d) OTHER PROGRAMS.—Nothing in this Act may be
2 construed to preempt or supersede any other program re-
3 lating to Hass avocado promotion and consumer informa-
4 tion organized and operated under the laws of the United
5 States or of a State.

6 **SEC. 13. REGULATIONS.**

7 The Secretary may issue such regulations as are nec-
8 essary to carry out this Act and the powers vested in the
9 Secretary by this Act, including regulations relating to the
10 assessment of late payment charges and interest.

11 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) IN GENERAL.—There are authorized to be appro-
13 priated for each fiscal year such sums as are necessary
14 to carry out this Act.

15 (b) ADMINISTRATIVE EXPENSES.—Funds appro-
16 priated under subsection (a) may not be used for the pay-
17 ment of the expenses or expenditures of the Board in ad-
18 ministering a provision of an order.

○