

108TH CONGRESS  
2D SESSION

# S. 144

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## AN ACT

To require the Secretary of Agriculture to establish a program to provide assistance to eligible weed management entities to control or eradicate noxious 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,*

1 **SECTION 1. NOXIOUS WEED CONTROL AND ERADICATION.**

2 The Plant Protection Act (7 U.S.C. 7701 et seq.) is  
3 amended by adding at the end the following new subtitle:

4 **“Subtitle E—Noxious Weed Control  
5 and Eradication**

6 **“SEC. 451. SHORT TITLE.**

7 “This subtitle may be cited as the ‘Noxious Weed  
8 Control and Eradication Act of 2004’.

9 **“SEC. 452. DEFINITIONS.**

10 “In this subtitle:

11 “(1) INDIAN TRIBE.—The term ‘Indian Tribe’  
12 has the meaning given that term in section 4 of the  
13 Indian Self-Determination and Education Assistance  
14 Act (25 U.S.C. 450b).

15 “(2) WEED MANAGEMENT ENTITY.—The term  
16 ‘weed management entity’ means an entity that—

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

19 “(B) is established for the purpose of or  
20 has demonstrable expertise and significant ex-  
21 perience in controlling or eradicating noxious  
22 weeds and increasing public knowledge and edu-  
23 cation concerning the need to control or eradi-  
24 cate noxious weeds;

25 “(C) may be multijurisdictional and multi-  
26 disciplinary in nature;

1                   “(D) may include representatives from  
2                   Federal, State, local, or, where applicable, In-  
3                   dian Tribe governments, private organizations,  
4                   individuals, and State-recognized conservation  
5                   districts or State-recognized weed management  
6                   districts; and

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

11                  “(3) FEDERAL LANDS.—The term ‘Federal  
12                  lands’ means those lands owned and managed by the  
13                  United States Forest Service or the Bureau of Land  
14                  Management.

15                  **“SEC. 453. ESTABLISHMENT OF PROGRAM.**

16                  “(a) IN GENERAL.—The Secretary shall establish a  
17                  program to provide financial and technical assistance to  
18                  control or eradicate noxious weeds.

19                  “(b) GRANTS.—Subject to the availability of appro-  
20                  priations under section 457(a), the Secretary shall make  
21                  grants under section 454 to weed management entities for  
22                  the control or eradication of noxious weeds.

23                  “(c) AGREEMENTS.—Subject to the availability of ap-  
24                  propriations under section 457(b), the Secretary shall  
25                  enter into agreements under section 455 with weed man-

1 agement entities to provide financial and technical assist-  
2 ance for the control or eradication of noxious weeds.

3 **“SEC. 454. GRANTS TO WEED MANAGEMENT ENTITIES.**

4       “(a) CONSULTATION AND CONSENT.—In carrying  
5 out a grant under this subtitle, the weed management en-  
6 tity and the Secretary shall—

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

11           “(2) obtain the written consent of the non-Fed-  
12 eral landowner.

13       “(b) GRANT CONSIDERATIONS.—In determining the  
14 amount of a grant to a weed management entity, the Sec-  
15 retary shall consider—

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

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

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

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

1       “(c) USE OF GRANT FUNDS; COST SHARES.—

2           “(1) USE OF GRANTS.—A weed management  
3       entity that receives a grant under subsection (a)  
4       shall use the grant funds to carry out a project au-  
5       thorized by subsection (d) for the control or eradi-  
6       cation of a noxious weed.

7           “(2) COST SHARES.—

8           “(A) FEDERAL COST SHARE.—The Federal  
9       share of the cost of carrying out an authorized  
10      project under this section exclusively on non-  
11      Federal land shall not exceed 50 percent.

12           “(B) FORM OF NON-FEDERAL COST  
13       SHARE.—The non-Federal share of the cost of  
14       carrying out an authorized project under this  
15       section may be provided in cash or in kind.

16           “(d) AUTHORIZED PROJECTS.—Projects funded by  
17       grants under this section include the following:

18           “(1) Education, inventories and mapping, man-  
19       agement, monitoring, methods development, and  
20       other capacity building activities, including the pay-  
21       ment of the cost of personnel and equipment that  
22       promote control or eradication of noxious weeds.

23           “(2) Other activities to control or eradicate nox-  
24       ious weeds or promote control or eradication of nox-  
25       ious weeds.

1       “(e) APPLICATION.—To be eligible to receive assist-  
2 ance under this section, a weed management entity shall  
3 prepare and submit to the Secretary an application con-  
4 taining such information as the Secretary shall by regula-  
5 tion require.

6       “(f) SELECTION OF PROJECTS.—Projects funded  
7 under this section shall be selected by the Secretary on  
8 a competitive basis, taking into consideration the fol-  
9 lowing:

10       “(1) The severity of the noxious weed problem  
11 or potential problem addressed by the project.

12       “(2) The likelihood that the project will prevent  
13 or resolve the problem, or increase knowledge about  
14 resolving similar problems.

15       “(3) The extent to which the Federal funds will  
16 leverage non-Federal funds to address the noxious  
17 weed problem addressed by the project.

18       “(4) The extent to which the program will im-  
19 prove the overall capacity of the United States to  
20 address noxious weed control and management.

21       “(5) The extent to which the weed management  
22 entity has made progress in addressing noxious weed  
23 problems.

1               “(6) The extent to which the project will pro-  
2        vide a comprehensive approach to the control or  
3        eradication of noxious weeds.

4               “(7) The extent to which the project will reduce  
5        the total population of noxious weeds.

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

10               “(9) Other factors that the Secretary deter-  
11        mines to be relevant.

12               “(g) REGIONAL, STATE, AND LOCAL INVOLVE-  
13        MENT.—In determining which projects receive funding  
14        under this section, the Secretary shall, to the maximum  
15        extent practicable—

16               “(1) rely on technical and merit reviews pro-  
17        vided by regional, State, or local weed management  
18        experts; and

19               “(2) give priority to projects that maximize the  
20        involvement of State, local and, where applicable, In-  
21        dian Tribe governments.

22               “(h) SPECIAL CONSIDERATION.—The Secretary shall  
23        give special consideration to States with approved weed  
24        management entities established by Indian Tribes and  
25        may provide an additional allocation to a State to meet

1 the particular needs and projects that the weed manage-  
2 ment entity plans to address.

3 **“SEC. 455. AGREEMENTS.**

4 “(a) CONSULTATION AND CONSENT.—In carrying  
5 out an agreement under this section, the Secretary shall—

6 “(1) if the activities funded under the agree-  
7 ment will take place on Federal land, consult with  
8 the heads of the Federal agencies having jurisdiction  
9 over the land; or

10 “(2) obtain the written consent of the non-Fed-  
11 eral landowner.

12 “(b) APPLICATION OF OTHER LAWS.—The Secretary  
13 may enter into agreements under this section with weed  
14 management entities notwithstanding sections 6301  
15 through 6309 of title 31, United States Code, and other  
16 laws relating to the procurement of goods and services for  
17 the Federal Government.

18 “(c) ELIGIBLE ACTIVITIES.—Activities carried out  
19 under an agreement under this section may include the  
20 following:

21 “(1) Education, inventories and mapping, man-  
22 agement, monitoring, methods development, and  
23 other capacity building activities, including the pay-  
24 ment of the cost of personnel and equipment that  
25 promote control or eradication of noxious weeds.

1               “(2) Other activities to control or eradicate nox-  
2               ious weeds.

3               “(d) SELECTION OF ACTIVITIES.—Activities funded  
4 under this section shall be selected by the Secretary taking  
5 into consideration the following:

6               “(1) The severity of the noxious weeds problem  
7 or potential problem addressed by the activities.

8               “(2) The likelihood that the activity will prevent  
9 or resolve the problem, or increase knowledge about  
10 resolving similar problems.

11               “(3) The extent to which the activity will pro-  
12 vide a comprehensive approach to the control or  
13 eradication of noxious weeds.

14               “(4) The extent to which the program will im-  
15 prove the overall capacity of the United States to  
16 address noxious weed control and management.

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

21               “(6) Other factors that the Secretary deter-  
22 mines to be relevant.

23               “(e) REGIONAL, STATE, AND LOCAL INVOLVE-  
24 MENT.—In determining which activities receive funding

1 under this section, the Secretary shall, to the maximum  
2 extent practicable—

3       “(1) rely on technical and merit reviews pro-  
4       vided by regional, State, or local weed management  
5       experts; and

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

9       “(f) RAPID RESPONSE PROGRAM.—At the request of  
10      the Governor of a State, the Secretary may enter into a  
11      cooperative agreement with a weed management entity in  
12      that State to enable rapid response to outbreaks of nox-  
13      ious weeds at a stage which rapid eradication and control  
14      is possible and to ensure eradication or immediate control  
15      of the noxious weeds if—

16       “(1) there is a demonstrated need for the as-  
17       sistance;

18       “(2) the noxious weed is considered to be a sig-  
19       nificant threat to native fish, wildlife, or their habi-  
20       tats, as determined by the Secretary;

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

23       “(4) the proposed response to such threat—

24           “(A) is technically feasible;

25           “(B) economically responsible; and

1                   “(C) minimizes adverse impacts to the  
2                   structure and function of an ecosystem and ad-  
3                   verse effects on nontarget species and eco-  
4                   systems.

5   **“SEC. 456. RELATIONSHIP TO OTHER PROGRAMS.**

6                   “Funds under this Act (other than those made avail-  
7                   able for section 455(f)) are intended to supplement, not  
8                   replace, assistance available to weed management entities,  
9                   areas, and districts for control or eradication of noxious  
10                  weeds on Federal lands and non-Federal lands. The provi-  
11                  sion of funds to a weed management entity under this Act  
12                  (other than those made available for section 455(f)) shall  
13                  have no effect on the amount of any payment received by  
14                  a county from the Federal Government under chapter 69  
15                  of title 31, United States Code.

16   **“SEC. 457. AUTHORIZATION OF APPROPRIATIONS.**

17                  “(a) GRANTS.—To carry out section 454, there are  
18                  authorized to be appropriated to the Secretary \$7,500,000  
19                  for each of fiscal years 2005 through 2009, of which not  
20                  more than 5 percent of the funds made available for a  
21                  fiscal year may be used by the Secretary for administrative  
22                  costs.

23                  “(b) AGREEMENTS.—To carry out section 455 of this  
24                  subtitle, there are authorized to be appropriated to the  
25                  Secretary \$7,500,000 for each of fiscal years 2005

1 through 2009, of which not more than 5 percent of the  
2 funds made available for a fiscal year may be used by the  
3 Secretary for administrative costs of Federal agencies.”.

4 **SEC. 2. TECHNICAL AMENDMENT.**

5 The table of sections in section 1(b) of the Agricul-  
6 tural Risk Protection Act of 2000 is amended by inserting  
7 after the item relating to section 442 the following:

“Subtitle E—Noxious Weed Control and Eradication

“Sec. 451. Short title.  
“Sec. 452. Definitions.  
“Sec. 453. Establishment of program.  
“Sec. 454. Grants to weed management entities.  
“Sec. 455. Agreements.  
“Sec. 456. Relationship to other programs.  
“Sec. 457. Authorization of Appropriations.”.

Passed the Senate October 10, 2004.

Attest:

*Secretary.*

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2D SESSION

**S. 144**

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**AN ACT**

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To require the Secretary of Agriculture to establish a program to provide assistance to eligible weed management entities to control or eradicate noxious weeds on public and private land.