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35. SPECIALTY CROPS COMPETITIVENESS ACT OF 2004

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June 18, 2008

35. SPECIALTY CROPS COMPETITIVENESS ACT OF 2004

[As Amended Through P.L. 110–246, Enacted June 18, 2008]

(Public Law 108–465)

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AN ACT To ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [7 U.S.C. 3101 note] SHORT TITLE.

This Act may be cited as the “Specialty Crops Competitiveness Act of 2004”.

SEC. 2. [7 U.S.C. 1621 note] FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) A secure domestic food supply is a national security imperative for the United States.

(2) A competitive specialty crop industry in the United States is necessary for the production of an abundant, affordable supply of highly nutritious fruits, vegetables, and other specialty crops, which are vital to the health and well-being of all Americans.

¹ This table of contents is not part of the Act but is included for user convenience.

(3) Increased consumption of specialty crops will provide tremendous health and economic benefits to both consumers and specialty crop growers.

(4) Specialty crop growers believe that there are numerous areas of Federal agriculture policy that could be improved to promote increased consumption of specialty crops and increase the competitiveness of producers in the efficient production of affordable specialty crops in the United States.

(5) As the globalization of markets continues, it is becoming increasingly difficult for United States producers to compete against heavily subsidized foreign producers in both the domestic and foreign markets.

(6) United States specialty crop producers also continue to face serious tariff and non-tariff trade barriers in many export markets.

(b) PURPOSE.—It is the purpose of this Act to make necessary changes in Federal agriculture policy to accomplish the goals of increasing fruit, vegetable, and nut consumption and improving the competitiveness of United States specialty crop producers.

SEC. 3. [7 U.S.C. 1621 note] DEFINITIONS.

In this Act:

(1) The term “specialty crop” means fruits and vegetables, tree nuts, dried fruits, and horticulture and nursery crops (including floriculture).

(2) The term “State” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(3) The term “State department of agriculture” means the agency, commission, or department of a State government responsible for agriculture within the State.

TITLE I—STATE ASSISTANCE FOR SPECIALTY CROPS

SEC. 101. [7 U.S.C. 1621 note] SPECIALTY CROP BLOCK GRANTS.

(a) AVAILABILITY AND PURPOSE OF GRANTS.—Using the funds made available under subsection (j), the Secretary of Agriculture shall make grants to States for each of the fiscal years 2005 through 2012 to be used by State departments of agriculture solely to enhance the competitiveness of specialty crops.

(b) GRANTS BASED ON VALUE OF PRODUCTION.—Subject to subsection (c), the amount of the grant for a fiscal year to a State under this section shall bear the same ratio to the total amount made available under subsection (j) for that fiscal year as the value of specialty crop production in the State during the preceding calendar year bears to the value of specialty crop production during the preceding calendar year in all States whose application for a grant for that fiscal year is accepted by the Secretary under subsection (f).

(c) **MINIMUM GRANT AMOUNT.**—Notwithstanding subsection (b), each State shall receive a grant under this section for each fiscal year in an amount that is at least equal to the higher of—

- (1) \$100,000; or
- (2) $\frac{1}{3}$ of 1 percent of the total amount of funding made available to carry out this section for the fiscal year.

(d) **ELIGIBILITY.**—To be eligible to receive a grant under this section, a State department of agriculture shall prepare and submit, for approval by the Secretary of Agriculture, an application at such time, in such a manner, and containing such information as the Secretary shall require by regulation, including—

- (1) a State plan that meets the requirements of subsection (e);
- (2) an assurance that the State will comply with the requirements of the plan; and
- (3) an assurance that grant funds received under this section shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds.

(e) **PLAN REQUIREMENTS.**—The State plan shall identify the lead agency charged with the responsibility of carrying out the plan and indicate how the grant funds will be utilized to enhance the competitiveness of specialty crops.

(f) **REVIEW OF APPLICATION.**—In reviewing the application of a State submitted under subsection (d), the Secretary of Agriculture shall ensure that the State plan would carry out the purpose of grant program, as specified in subsection (a). The Secretary may accept or reject applications for a grant under this section.

(g) **EFFECT OF NONCOMPLIANCE.**—If the Secretary of Agriculture, after reasonable notice to a State, finds that there has been a failure by the State to comply substantially with any provision or requirement of the State plan, the Secretary may disqualify, for one or more years, the State from receipt of future grants under this section.

(h) **AUDIT REQUIREMENTS.**—For each year that a State receives a grant under this section, the State shall conduct an audit of the expenditures of grant funds by the State. Not later than 30 days after the completion of the audit, the State shall submit a copy of the audit to the Secretary of Agriculture.

(i) **REALLOCATION.**—

(1) **IN GENERAL.**—The Secretary shall reallocate to other States in accordance with paragraph (2) any amounts made available for a fiscal year under this section that are not obligated or expended by a date during that fiscal year determined by the Secretary.

(2) **PRO RATA ALLOCATION.**—The Secretary shall allocate funds described in paragraph (1) pro rata to the remaining States that applied during the specified grant application period.

(3) **USE OF REALLOCATED FUNDS.**—Funds allocated to a State under this subsection shall be used by the State only to carry out projects that were previously approved in the State plan of the State.

(j) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make grants under this section, using—

- (1) \$10,000,000 for fiscal year 2008;
- (2) \$49,000,000 for fiscal year 2009; and
- (3) \$55,000,000 for each of fiscal years 2010 through 2012.

TITLE II—SPECIALTY CROP ADVANCEMENT

SEC. 201. TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.

For each of the fiscal years 2005 through 2009, there is authorized to be appropriated to the Secretary of Agriculture \$2,000,000 to carry out section 3205 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5680). Amounts appropriated pursuant to this authorization of appropriations shall be in addition to any other funds made available to carry out such section.

SEC. 202. [7 U.S.C. 7712a] REDUCTION IN BACKLOG OF AGRICULTURAL EXPORT PETITIONS.

(a) REDUCTION EFFORTS.—To the maximum extent practicable, the Secretary of Agriculture shall endeavor to reduce the backlog in the number of applications for permits for the export of United States agricultural commodities. In achieving such reduction, the Secretary shall not dilute or diminish existing personnel resources that are currently managing sanitary and phytosanitary issues for—

- (1) United States agricultural commodities for which exportation is sought; and
- (2) interdiction and control of pests and diseases, including for the evaluation of pest and disease concerns of foreign agricultural commodities for which importation is sought.

(b) REPORT.—The Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report specifying, for the year covered by the report—

- (1) the total number of applications processed to completion;
- (2) the number of backlog applications processed to completion;
- (3) the percentage of backlog applications processed to completion; and
- (4) the number of backlog applications remaining.

SEC. 203. REPORT ON SANITARY AND PHYTOSANITARY EXPORT ISSUES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on significant sanitary and phytosanitary issues that affect the export of specialty crops.

TITLE III—SPECIALTY CROP RESEARCH

SEC. 301. [7 U.S.C. 5925 note] METHYL BROMIDE ALTERNATIVES.

(a) PRIORITY.—The Secretary of Agriculture shall elevate the priority of current methyl bromide alternative research and extension activities and reexamine the risks and benefits of extending the phase-out deadline in effect on the date of the enactment of this Act, including the estimated cost to the grower or processor associated with any alternatives proposed.

(b) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2005 through 2009, there is authorized to be appropriated to the Secretary of Agriculture \$5,000,000 to carry out this section.

SEC. 302. NATIONAL SPECIALTY CROP RESEARCH PROGRAM.

Section 1672(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925(e)) is amended by adding at the end of the following new paragraph:

“(45) SPECIALTY CROP RESEARCH.—Research and extension grants may be made under this section for the purpose of improving the efficiency, productivity, and profitability of specialty crop production in the United States.”.

SEC. 303. SPECIALTY CROP COMMITTEE.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1408 (7 U.S.C. 3123) the following new section:

“SEC. 1408A. [7 U.S.C. 3123a] SPECIALTY CROP COMMITTEE

“(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of the Specialty Crops Competitiveness Act of 2004, the executive committee of the Advisory Board shall establish, and appoint the initial members of, a permanent specialty crops committee that will be responsible for studying the scope and effectiveness of research, extension, and economics programs affecting the specialty crop industry.

“(b) MEMBERS.—Individuals who are not members of the Advisory Board may be appointed as members of the specialty crops committee. Members of the specialty crops committee shall serve at the discretion of the executive committee.

“(c) ANNUAL COMMITTEE REPORT.—Not later than 180 days after the establishment of the specialty crops committee, and annually thereafter, the specialty crops committee shall submit to the Advisory Board a report containing the findings of its study under subsection (a). The specialty crops committee shall include in each report recommendations regarding the following:

“(1) Measures designed to improve the efficiency, productivity, and profitability of specialty crop production in the United States.

“(2) Measures designed to improve competitiveness in research, extension, and economics programs affecting the specialty crop industry.

“(3) Programs that would—

“(A) enhance the quality and shelf-life of fresh fruits and vegetables, including their taste and appearance;

“(B) develop new crop protection tools and expand the applicability and cost-effectiveness of integrated pest management;

“(C) prevent the introduction of foreign invasive pests and diseases;

“(D) develop new products and new uses of specialty crops;

“(E) develop new and improved marketing tools for specialty crops;

“(F) enhance food safety regarding specialty crops;

“(G) improve mechanization of production practices;

and

“(H) enhance irrigation techniques used in specialty crop production.

“(d) CONSIDERATION BY SECRETARY.—In preparing the annual budget recommendations for the Department of Agriculture, the Secretary shall take into consideration those findings and recommendations contained in the most-recent report of the specialty crops committee that are adopted by the Advisory Board.

“(e) ANNUAL REPORT BY SECRETARY.—In the budget material submitted to Congress by the Secretary in connection with the budget submitted pursuant to section 1105 of title 31, United States Code, for a fiscal year, the Secretary shall include a report describing how the Secretary addressed each recommendation of the specialty crops committee described in subsection (d).”.

TITLE IV—PEST AND DISEASE RESPONSE FUND

SEC. 401. [7 U.S.C. 8321] PEST AND DISEASE RESPONSE FUND.

(a) ESTABLISHMENT.—There is established on the books of the Treasury an account to be known as the “Pest and Disease Response Fund”. There shall be deposited into the Fund any proceeds received by the Secretary of Agriculture as reimbursement for services provided by the Secretary using amounts in the Fund.

(b) AVAILABILITY.—Amounts in the Fund shall remain available until expended.

(c) USE OF FUND.—In implementing the Animal Health Protection Act (7 U.S.C. 8301 et seq.) and the Plant Protection Act (7 U.S.C. 7701 et seq.), the Secretary of Agriculture shall have complete discretion regarding the use of amounts in the Fund to support emergency eradication and research activities in response to economic and health threats posed by pests and diseases affecting agricultural commodities.

(d) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2005 through 2009, there is authorized to be appropriated to the Secretary of Agriculture \$1,000,000 for deposit in the Fund.

SEC. 402. IMPORT AND EXPORT REGULATION REVIEW.

(a) PEER REVIEW.—The Secretary of Agriculture shall enter into an agreement with the National Plant Board to obtain a peer review of the procedures and standards that govern the consideration of import and export requests under section 412 of the Plant

Protection Act (7 U.S.C. 7712). The peer review shall be consistent with the guidance by the Office of Management and Budget pertaining to peer review and information quality.

(b) **ELEMENTS OF REVIEW.**—The peer review required by subsection (a) shall address, at a minimum—

- (1) the preparation of risk assessments; and
- (2) the sufficiency, type, and quality of data that should be submitted to the Secretary of Agriculture.

(c) **SUBMISSION OF RESULTS.**—The results of the peer review conducted under subsection (a) shall be submitted to the Secretary and Congress not later than 180 days after the date of the enactment of this Act.

SEC. 403. MAINTENANCE OF FREDERICKSBURG INSPECTION TRAINING CENTER.

For each of the fiscal years 2005 through 2009, there is authorized to be appropriated to the Secretary of Agriculture \$1,500,000 for the maintenance of the Agricultural Marketing Service inspection training center in Fredericksburg, Virginia.