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Part 1

NOXIOUS WEED CONTROL ACT OF 2004

JUNE 1, 2004.—Ordered to be printed

Mr. POMBO, from the Committee on Resources, submitted the following

R E P O R T

[To accompany S. 144]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 144) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Noxious Weed Control Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

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

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(3) INDIAN TRIBE.—The term "Indian tribe" has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(4) FEDERAL LANDS.—The term "Federal lands" means Federal lands under the jurisdiction of the Bureau of Land Management or the Forest Service.

(5) WEED MANAGEMENT ENTITY.—The term "weed management entity" means an entity that—

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

(B) is established for the purpose of controlling or eradicating noxious weeds and increasing public knowledge and education concerning the need to control or eradicate noxious weeds;

(C) may be multijurisdictional and multidisciplinary in nature; and

(D) may include Federal and State representatives, private organizations, individuals, and State-recognized conservation districts.

SEC. 3. ESTABLISHMENT OF PROGRAM.

The Secretary shall establish a program to provide financial assistance through States to eligible weed management entities to control or eradicate noxious weeds. In developing the program, the Secretary shall consult with the Secretary of the Interior, representatives from States and Indian tribes that have weed management entities or that have particular problems with noxious weeds, and public and private entities with experience in noxious weed management.

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

(a) IN GENERAL.—Under the program established pursuant to section 3, the Secretary may allocate funds to States to provide funding to weed management entities to carry out projects approved by States to control or eradicate noxious weeds on the basis of—

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

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

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

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

(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to States with approved weed management entities established by Indian Tribes and may provide an additional allocation to a State to meet the particular needs and projects that such a weed management entity plans to address.

(c) EQUAL CONSIDERATION OF PROJECTS.—To the extent made possible by acceptable applications, the Secretary shall give equal consideration to projects that address noxious weed problems on lands under the jurisdiction of the Federal Bureau of Land Management and projects that address noxious weed problems on lands under the jurisdiction of the Forest Service.

SEC. 5. ELIGIBILITY AND USE OF FUNDS.

(a) REQUIREMENTS.—The Secretary shall prescribe requirements for applications by weed management entities for funding under this Act (other than section 10). Such requirements shall include—

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

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

(A) is capable of carrying out the project;

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

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

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

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

(b) ELIGIBLE PROJECTS.—Projects eligible to be funded under this Act (other than section 10) are projects relating to the control or eradication of noxious weeds, including the following:

(1) Education.

(2) Inventories.

(3) Mapping.

(4) Management.

(5) Monitoring.

(6) Payment of the cost of personnel and equipment that promote control or eradication of noxious weeds.

(7) Other activities to promote such control or eradication, if the results of the activities are disseminated to the public.

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

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

(2) The likelihood that the project will prevent or resolve the problem, or increase knowledge about resolving similar problems in the future.

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

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

(5) The extent to which the project is likely to reduce the population of a noxious weed.

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

(7) Such other factors that the Secretary determines relevant.

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

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

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

SEC. 6. TECHNICAL ASSISTANCE.

Field offices of the Bureau of Land Management and the Forest Service may provide technical assistance, on a reimbursable basis, to weed management agencies in developing projects and filing applications for funding of projects under this Act (other than section 10).

SEC. 7. CONDITIONS.

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

(b) COMPLIANCE WITH STATE LAW.—A weed management entity may carry out a project to address a noxious weed problem in more than 1 State only if the weed management entity meets the requirements of the State laws in all States in which the weed management entity will undertake the project.

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

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

(2) to protect an agricultural commodity (as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602)) other than—

(A) livestock (as defined in section 602 of the Agricultural Trade Act of 1949 (7 U.S.C. 1471)); or

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

SEC. 8. RELATIONSHIP TO OTHER PROGRAMS.

Funds under this Act (other than section 10) are intended to supplement, not replace, assistance available to weed management entities, areas, and districts for control or eradication of noxious weeds on Federal lands and private lands. The provision of funds to a weed management entity under this Act (other than section 10) shall have no effect on the amount of any payment received by a county from the Federal Government under chapter 69 of title 31, United States Code (commonly known as the "Payments in Lieu of Taxes Act").

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

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

(1) not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs of Federal agencies; and

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

SEC. 10. RAPID RESPONSE CAPABILITY TO NOXIOUS WEEDS.

(a) ESTABLISHMENT.—At the request of the Governor of a State, the Secretary may provide financial assistance to weed management entities through that State to enable a rapid response to outbreaks of noxious weeds that are at a stage at which rapid eradication or control is possible and to ensure eradication or immediate control of the noxious weeds.

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

(1) there is a demonstrated need for the assistance;

(2) the noxious weed is considered to be an immediate threat to native fish, wildlife, or their habitats, as determined by the Secretary;

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

(4) the proposed response to such threat—

(A) is technically feasible;

(B) economically responsible; and

(C) minimizes adverse impacts to the structure and function of an ecosystem and adverse effects on nontarget species and ecosystems.

(c) AMOUNT OF FINANCIAL ASSISTANCE.—The Secretary shall determine the amount of financial assistance to be provided under this section, subject to the availability of appropriations.

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

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

PURPOSE OF THE BILL

The purpose of S. 144 is 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.

BACKGROUND AND NEED FOR LEGISLATION

Under S. l44, as amended by the Full Resources Committee, the Secretary of the Agriculture would establish a program to provide financial assistance through States to eligible weed management entities to control or eradicate "noxious weeds", as defined by the Plant Protection Act (7 U.S.C. 7702(10)). The bill does, however, limit the scope of potentially noxious weeds as animals, pests, and row crops are specifically ineligible. In developing the program, the Secretary shall consult with the Secretary of the Interior, representatives from States and Indian tribes with weed management entities or that have particular problems with noxious weeds, and public and private entities with experience in noxious weed management.

In terms of process, weed management entities, as defined by the bill, would submit weed eradication or control projects initially to the States for approval. States would then submit a projects to the Secretary. Based on priorities established in the bill, the Secretary may provide funding to the States, who serve as a pass through to those eligible weed management entities. Federal monies are limited to State, private, and federal lands under the jurisdiction of the U.S. Forest Service and the Bureau of Land Management. Priority for funding proposed projects will be given on the basis of the severity or potential severity of the noxious weed problem, the extent to which the federal funds will be used to leverage non-federal funds, the extent to which the State has made progress in addressing noxious weed problems, and such other factors as the Secretary deems relevant. The Secretary is mandated to provide special consideration for States with approved weed management entities established by Indian Tribes, and may also provide an additional allocation to a State to meet the particular needs and projects that such a tribal weed management entity will address. The Secretary will also make States responsible for auditing and reporting of funded projects, as well as prescribe to States the requirements for funding applications to be made by the States to the Secretary.

With respect to funding, $50 million is authorized to be made available annually from 2005–2009 to carry out this Act. Administrative costs incurred by the Secretary may not exceed 5% in any given year, and the federal share of any project carried out on non-

federal land may not exceed 50%. Similarly, administrative costs incurred by States is limited to 10% annually.

Finally, the bill establishes an emergency response program that allows weed management entities at the request of the governor of the State in which they reside to forgo the application process established under the bill and request emergency funds from the Secretary to enable rapid response to noxious weed outbreaks. The reporting and auditing requirements, however, remain consistent with those established for non-emergency funding requests under the bill.

COMMITTEE ACTION

Senator Larry Craig (R–ID) introduced S. 144 on January 13, 2003. The bill passed the Senate by unanimous consent on March 4, 2004 with an amendment. The bill was referred to the Committee on Resources, and in addition to the Committee on Agriculture, within the U.S. House of Representatives. Within the Committee on Resources, the bill was referred to the Subcommittee on National Parks, Recreation and Public Lands and the Subcommittee on Fisheries Conservation, Wildlife and Oceans. The Subcommittee on National Parks, Recreation and Public Lands met on April 29, 2004, to hear the bill. On May 19, 2004, the Full Resources Committee met to mark up the bill. The Subcommittee on Fisheries Conservation, Wildlife and Oceans and the Subcommittee on National Parks, Recreation and Public Lands were discharged from further consideration of the bill by unanimous consent. Chairman Richard Pombo (R–CA) offered an amendment in the nature of a substitute to the bill which: (1) transferred the authority for the program from the Secretary of the Interior to the Secretary of Agriculture; (2) restricted the program to Bureau of Land Management and U.S. Forest Service lands; (3) authorized an emergency response program; and 4) reduced the authorization of appropriations. No further amendments were offered and the Pombo amendment in the nature of a substitute was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill pre-

pared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is 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.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 1, 2004.

Hon. RICHARD W. POMBO,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 144, the Noxious Weed Control Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

ELIZABETH ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

S. 144—Noxious Weed Control Act of 2003

Summary: S. 144 would direct the Secretary of Agriculture to establish a program to provide grants to states and Indian tribes to support projects to control or eradicate noxious weeds on public and private lands. CBO estimates that the proposed program would cost $10 million in 2005 and $139 million over the 2005–2009 period, assuming appropriation of the necessary amounts. Enacting the legislation would not affect direct spending or revenues.

S. 144 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Any costs incurred by those governments to comply with the conditions of this assistance would be voluntary.

Estimated cost to the Federal Government: For this estimate, we assume S. 144 will be enacted near the start of fiscal year 2005 and that authorized amounts will be provided as specified by the act. The estimated budgetary impact of S. 144 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	55	55	55	55	55
Estimated Outlays	10	18	28	38	45

Basis of estimate: S. 144 would authorize the appropriation of $50 million a year over the 2005–2009 period for the Secretary of Agriculture to make grants to states and Indian tribes to fund projects to study, control, or eradicate noxious weeds on public and private lands. Based on historical spending patterns for similar activities, CBO estimates that those activities would cost $5 million in 2005 and $114 million over the 2005–2009 period, with additional spending occurring in later years. Estimates of outlays are based on historical spending patterns for similar activities.

Section 10 would authorize the Secretary to provide financial assistance to states to mitigate particularly threatening outbreaks of noxious weeds. According to the Forest Service, the agency already provides such assistance under current law, subject to requirements that states pay for a portion of the cost of such activities. S. 144 would allow the Secretary to pay up to 100 percent of those costs. Based on information from the Forest Service, CBO estimates that the total cost of those activities is about $10 million a year, and that states pay roughly half of the costs. Hence, we estimate that authorizing the Secretary to fully fund those projects could increase federal spending by as much as $5 million a year, assuming the availability of appropriated funds.

Intergovernmental and private-sector impact: S. 144 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Any costs incurred by those governments to comply with the conditions of this assistance would be voluntary.

Previous CBO estimate: On February 7, 2003, CBO transmitted a cost estimate for S. 144 as ordered reported by the Senate Committee on Energy and Natural Resources on February 5, 2003. Both versions of S. 144 would authorize funds for grants to states and tribes for projects related to noxious weeds. The House Committee on Resources' version of S. 144 would authorize less funding for such grants; hence our estimate of spending under that version is less. Further differences result because the House Committee on Resources' version S. 144 would authorize a change in the cost-sharing requirements for financial assistance to states to help control particularly threatening outbreaks of noxious weeds.

Estimate prepared by: Federal Costs: Megan Carroll; Impact on State, Local, and Tribal Governments: Majorie Miller; and Impact on the Private Sector: Selena Caldera.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

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