

CODIFICATION

Section was enacted as part of the Agricultural Risk Protection Act of 2000, and not as part of the Global Climate Change Prevention Act of 1990 which comprises this chapter.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–171, § 7223(1), substituted “To the extent funds are made available for this purpose, the Secretary shall provide” for “Of the amount made available under section 261(a)(2), the Secretary shall use \$15,000,000 to provide”.

Subsecs. (d), (e). Pub. L. 107–171, § 9009, added subsecs. (d) and (e). Former subsec. (d) redesignated (f).

Subsec. (f). Pub. L. 107–171, § 9009(1), redesignated subsec. (d) as (f).

Pub. L. 107–171, § 7223(2), substituted “for this section” for “under subsection (a) of this section”.

Subsec. (g). Pub. L. 107–171, § 7223(3), added subsec. (g).

CHAPTER 97—FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION

Sec.	
6801.	Findings and declaration of policy. (a) Findings. (b) Policy and purpose.
6802.	Definitions.
6803.	Issuance of orders. (a) In general. (b) Procedures. (c) Amendments.
6804.	Required terms in orders. (a) In general. (b) PromoFlor Council. (c) General responsibilities of PromoFlor Council. (d) Budgets; plans and projects. (e) Contracts and agreements. (f) Books and records of PromoFlor Council. (g) Control of administrative costs. (h) Assessments. (i) Prohibition. (j) Books and records; reports. (k) Consultations with industry experts. (l) Other terms of order.
6805.	Exclusion; determinations. (a) Exclusion. (b) Making determinations.
6806.	Referenda. (a) Requirement for initial referendum. (b) Votes permitted. (c) Suspension or termination referenda. (d) Suspension or termination. (e) Manner of conducting referenda.
6807.	Petition and review. (a) Petition and hearing. (b) Review. (c) Enforcement.
6808.	Enforcement. (a) Jurisdiction. (b) Referral to Attorney General. (c) Civil penalties and orders. (d) Review by district court. (e) Failure to obey order. (f) Failure to pay penalty. (g) Additional remedies.
6809.	Investigations and power to subpoena. (a) Investigations. (b) Subpoenas, oaths, and affirmations. (c) Aid of courts.
6810.	Confidentiality. (a) Prohibition. (b) Penalty. (c) Additional prohibition. (d) Withholding information from Congress prohibited.

Sec.

6811.	Authority for Secretary to suspend or terminate order.
6812.	Construction. (a) Termination or suspension not an order. (b) Producer rights. (c) Other programs.
6813.	Regulations.
6814.	Authorization of appropriations. (a) In general. (b) Administrative expenses.

§ 6801. Findings and declaration of policy

(a) Findings

Congress finds that—

(1) fresh cut flowers and fresh cut greens are an integral part of life in the United States, are enjoyed by millions of persons every year for a multitude of special purposes (especially important personal events), and contribute a natural and beautiful element to the human environment;

(2)(A) cut flowers and cut greens are produced by many individual producers throughout the United States as well as in other countries, and are handled and marketed by thousands of small-sized and medium-sized businesses; and

(B) the production, handling, and marketing of cut flowers and cut greens constitute a key segment of the United States horticultural industry and thus a significant part of the overall agricultural economy of the United States;

(3) handlers play a vital role in the marketing of cut flowers and cut greens in that handlers—

(A) purchase most of the cut flowers and cut greens marketed by producers;

(B) prepare the cut flowers and cut greens for retail consumption;

(C) serve as an intermediary between the source of the product and the retailer;

(D) otherwise facilitate the entry of cut flowers and cut greens into the current of domestic commerce; and

(E) add efficiencies to the market process that ensure the availability of a much greater variety of the product to retailers and consumers;

(4) it is widely recognized that it is in the public interest and important to the agricultural economy of the United States to provide an adequate, steady supply of cut flowers and cut greens at reasonable prices to the consumers of the United States;

(5)(A) cut flowers and cut greens move in interstate and foreign commerce; and

(B) cut flowers and cut greens that do not move in interstate or foreign channels of commerce but only in intrastate commerce directly affect interstate commerce in cut flowers and cut greens;

(6) the maintenance and expansion of markets in existence on December 14, 1993, and the development of new or improved markets or uses for cut flowers and cut greens, are needed to preserve and strengthen the economic viability of the domestic cut flowers and cut greens industry for the benefit of producers, handlers, retailers, and the entire floral industry;

(7) generic programs of promotion and consumer information can be effective in maintaining and developing markets for cut flowers and cut greens, and have the advantage of equally enhancing the market position for all cut flowers and cut greens;

(8) because cut flowers and cut greens producers are primarily agriculture-oriented rather than promotion-oriented, and because the floral marketing industry within the United States is comprised mainly of small-sized and medium-sized businesses, the development and implementation of an adequate and coordinated national program of generic promotion and consumer information necessary for the maintenance of markets in existence on December 14, 1993, and the development of new markets for cut flowers and cut greens have been prevented;

(9) there exist established State and commodity-specific producer-funded programs of promotion and research that are valuable efforts to expand markets for domestic producers of cut flowers and cut greens and that will benefit from the promotion and consumer information program authorized by this chapter in that the program will enhance the market development efforts of the programs for domestic producers;

(10) an effective and coordinated method for ensuring cooperative and collective action in providing for and financing a nationwide program of generic promotion and consumer information is needed to ensure that the cut flowers and cut greens industry will be able to provide, obtain, and implement programs of promotion and consumer information necessary to maintain, expand, and develop markets for cut flowers and cut greens; and

(11) the most efficient method of financing such a nationwide program is to assess cut flowers and cut greens at the point at which the flowers and greens are sold by handlers into the retail market.

(b) Policy and purpose

It is the policy of Congress that it is in the public interest, and it is the purpose of this chapter, to authorize the establishment, through the exercise of the powers provided in this chapter, of an orderly procedure for the development and financing (through an adequate assessment on cut flowers and cut greens sold by handlers to retailers and related entities in the United States) of an effective and coordinated program of generic promotion, consumer information, and related research designed to strengthen the position of the cut flowers and cut greens industry in the marketplace and to maintain, develop, and expand markets for cut flowers and cut greens.

(Pub. L. 103-190, § 2, Dec. 14, 1993, 107 Stat. 2266.)

SHORT TITLE

Section 1(a) of Pub. L. 103-190 provided that: "This Act [enacting this chapter] may be cited as the 'Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993'."

§ 6802. Definitions

As used in this chapter:

(1) Consumer information

The term "consumer information" means any action or program that provides information to consumers and other persons on appropriate uses under varied circumstances, and on the care and handling, of cut flowers or cut greens.

(2) Cut flowers and cut greens

(A) In general

(i) Cut flowers

The term "cut flowers" includes all flowers cut from growing plants that are used as fresh-cut flowers and that are produced under cover or in field operations.

(ii) Cut greens

The term "cut greens" includes all cultivated or noncultivated decorative foliage cut from growing plants that are used as fresh-cut decorative foliage (except Christmas trees) and that are produced under cover or in field operations.

(iii) Exclusions

The terms "cut flowers" and "cut greens" do not include a foliage plant, floral supply, or flowering plant.

(B) Substantial portion

In any case in which a handler packages cut flowers or cut greens with hard goods in an article (such as a gift basket or similar presentation) for sale to a retailer, the PromoFlor Council may determine, under procedures specified in the order, that the cut flowers or cut greens in the article do not constitute a substantial portion of the value of the article and that, based on the determination, the article shall not be treated as an article of cut flowers or cut greens subject to assessment under the order.

(3) Gross sales price

The term "gross sales price" means the total amount of the transaction in a sale of cut flowers or cut greens from a handler to a retailer or exempt handler.

(4) Handler

(A) Qualified handler

(i) In general

The term "qualified handler" means a person (including a cooperative) operating in the cut flowers or cut greens marketing system—

(I) that sells domestic or imported cut flowers or cut greens to retailers and exempt handlers; and

(II) whose annual sales of cut flowers and cut greens to retailers and exempt handlers are \$750,000 or more.

(ii) Inclusions and exclusions

(I) In general

The term "qualified handler" includes—

(aa) bouquet manufacturers (subject to paragraph (2)(B));

(bb) an auction house that clears the sale of cut flowers and cut greens to re-