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CRS Report for Congress

Specialty Crops: 2007 Farm Bill Issues

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Specialty Crops: 2007 Farm Bill Issues

Summary

Congress is expected shortly to begin consideration of omnibus legislation to replace the expiring Farm Security and Rural Investment Act of 2002 (P.L. 107-171, the 2002 farm bill). Farm bill policies governing U.S. Department of Agriculture (USDA) programs on marketing, crop insurance and disaster assistance, protection against pests and diseases, export promotion, and domestic food assistance, among others, are important to the competitiveness of the specialty crop sector of U.S. agriculture. The sector includes fruit, vegetable, tree nut, and nursery crop producers, processors, manufacturers, wholesalers, importers, and exporters.

Although specialty crops are not eligible for direct support under USDA's farm commodity price and income support programs, the policies that Congress sets for the major farm income and commodity price support programs affect them. Congress inserted a provision in the 1996 farm bill (P.L. 104-127, the Federal Agriculture Improvement and Reform Act) permitting program participants to plant different crops on their program acres and still receive benefits. Before final passage of that bill, however, Congress added another provision largely restricting participants from planting fruits and vegetables on those acres, after specialty crop interests expressed concern over the price volatility that the sector could suffer as a result. Congress renewed the planting restriction in the 2002 farm bill.

The upcoming farm bill debate on the planting restriction provision, as well as other key policies, will be affected by several new factors. Trade agreement concerns could potentially require a relaxation of planting restrictions, and constrain policies affecting the amount of spending for program crops. In addition, the specialty crop sector is seeking greater federal investment in non-trade distorting programs that would support its role as a high-value segment of U.S. agriculture. As an initial effort in that regard, the 108th Congress passed the Specialty Crops Competitiveness Act of 2004 (P.L. 108-465). Among other things, the act authorized block grants to states for research and promotion efforts, strengthened efforts to overcome phytosanitary (pest and disease) barriers to exports, and provided mandatory funding for a large competitive research grant program to address a broad spectrum of specialty crop development needs.

This report discusses potential 2007 farm bill proposals affecting the specialty crop sector, as foreshadowed by the Specialty Crops Competitiveness Act of 2004 as introduced (H.R. 3242), and by a variety of proposals introduced in the 109th Congress (H.R. 3562/S. 1556; S. 2487; H.R. 6193). The report will track congressional consideration of the 2007 farm bill and will be updated as necessary.

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Introduction

Specialty crops (fruits, vegetables, tree nuts and nursery crops) are not eligible for direct support under USDA's farm commodity price and income support programs. Nonetheless, the policies that Congress sets for those programs significantly affect the specialty crop sector's economic well-being. Federal policies on trade, conservation, credit, marketing programs, domestic food assistance, and research also all affect the specialty crop sector.[1]

Congress sets the policies in these areas, for the most part, in an omnibus, multi-year authorizing law commonly called the "farm bill." Many of the provisions of the most recent omnibus farm bill, the Farm Security and Rural Investment Act of 2002 (P.L. 107-171), expire in 2007. In the second session of the 109th Congress, the House Committee on Agriculture held field hearings to gather information from stakeholders in preparation for consideration of a new farm bill to replace the expiring one.

Some stakeholders and policymakers are calling for specialty crop issues to occupy a larger role in farm bill policy discussions than in the past. They note that the traditional farm commodity support programs are under pressure from constraints on the federal budget, as well as from developments in existing trade obligations and from negotiations on further trade agreements.[2] Policies covering U.S. agriculture more comprehensively could provide a way to address those pressures while increasing U.S. competitiveness, they argue.

In 2004, the 108th Congress passed the Specialty Crop Competitiveness Act, which addressed issues related to domestic marketing, exports, research, and protection from invasive pests and diseases (P.L. 108-465; H.R. 3242). This act and a number of additional proposals introduced (but not acted upon) in the 109th Congress are expected to serve as the basis for consideration of specialty crop provisions in the 2007 farm bill, and are the source of the policy options covered in

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[1] For background information on all federal programs affecting specialty crops, see CRS Report RL32746, *Fruits, Vegetables, and Other Specialty Crops: A Primer on Government Programs*.

[2] For information on the relationship between international trade negotiations and U.S. farm policy, see CRS Report RS21005, *Agriculture in the WTO Doha Round: The Framework Agreement and Next Steps*, and CRS Report RS20840, *Agriculture in the WTO: Limits on Domestic Support.*

this report until the farm bill debate formally begins.[3] Policy recommendations from various stakeholder groups will be added to the report as they become public.

Sector Snapshot

Sales of fruits, vegetables, and tree nuts account for nearly one-third of U.S. crop cash receipts and one-fifth of U.S. agricultural exports, according to USDA's Economic Research Service (ERS). When floriculture, greenhouse, and nursery crops are included, specialty crops account for approximately 50% of all U.S. cash receipts of farm crops.[4]

Despite their relatively large share of crop receipts, specialty crops occupy only about 3% of U.S. harvested cropland. Although certain states and regions are predominant, nearly every state has some commercial specialty crop production within its borders. Figures 1, 2, and 3 (in Appendix A, pages 10-12) illustrate the distribution, nationwide, of areas producing fruits, vegetables, tree nuts, and nursery crops, shown as percentages of the total market value of agricultural products sold (including livestock).[5]

About three-fourths of growers are considered specialized, which means that they receive at least half of their gross value of production from the sale of fruits, vegetables, tree nuts or horticultural crops. According to ERS survey data, specialized farms account for 95% of the total value of U.S. specialty crop production, although more than half of them have annual sales of less than $250,000 and identify off-farm income as their primary means of support. Specialized farms may produce one or two other commodities in addition to their specialty crop, according to ERS, and about 15% of them also participate in the major commodity support programs.

The remaining 5% of the value of U.S. specialty crop production comes from non-specialized fruit and vegetable farms, which may produce as many as four other commodities (often including livestock) besides their specialty crop. Nearly half of these farms grow one or more of the major commodity crops and participate in the price and income support programs, according to ERS.

Vegetables, dry beans, and potatoes — for processing — are grown primarily on large-acreage, non-specialized commercial farms. California is the overwhelming leader in production, but certain states in the Northeast, Central and Upper Midwest, and Pacific Northwest also are major producers.

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[3] The speciality crop-related proposals in the 109th Congress were H.R. 3562/S. 1556, S. 2487, and H.R. 6193.

[4] *Fruit and Vegetable Backgrounder* (USDA, Economic Research Service, April 2006) is the source for all the statistical information in this section. It is available online at [http://www.ers.usda.gov/].

[5] Note: The maps show the value of specialty crops as a percent of total market value of all agricultural products sold, including livestock. Data from ERS's *Fruit and Vegetable Backgounder*, cited above in this section, compare specialty crop values to other *crop* values.

2007 Farm Bill Issues

Planting Flexibility

A key issue for the some parts of the specialty crop industry is the continuation of a 2002 farm bill provision that restricts the ability of participants in the farm income and commodity price support programs to plant fruits and vegetables on acres on which they receive benefits (base acres). Congress first inserted this provision in the 1996 farm act (P.L. 104-127), after it had adopted a proposal to allow producers of program crops to respond to market signals and grow different crops on base acreage. The restriction was extended through 2007 by the 2002 farm bill.

Specialty crop producers, in general, have maintained since 1996 that allowing program crop producers to switch even small numbers of acres to fruits or vegetables would negatively affect markets, and thus growers' annual income.

For a different reason, the 2002 extension of the planting flexibility restriction caused problems for a number of farmers in the Midwest and Lake States (Minnesota, Wisconsin, and Michigan) who traditionally grow vegetable crops on contract for processing, in rotation with soybeans. The 2002 farm bill made soybeans eligible for declaration as a "base" crop. Some producers found themselves unable to continue their traditional vegetable rotation on their own land due to the planting restriction. Others had difficulty finding rental farmland, as the owners feared losing base acreage if the renter planted a vegetable crop after the soybean crop on the rented acres. Bills proposing various solutions for this problem were introduced in the 108th Congress and again in the 109th, but no action was taken on them.

In 2005, a World Trade Organization (WTO) challenge to U.S. farm commodity programs raised questions concerning the use of the planting flexibility restriction under existing trade commitments.[6] Discussion on whether to extend the restriction in the next farm bill thus will have an important trade policy aspect as well as domestic market considerations.

In November 2006, ERS released a report examining the possible effects on domestic fruit and vegetable producers of eliminating the planting restriction.[7] The analysis suggests that the market effects likely would be limited and confined to specific regions and predominantly to lower-value commodities for processing (e.g., tomatoes, dry beans, potatoes). Certain producers would experience declining net returns, the report states, but the markets likely would adjust within one or two years. The report indicates that the regions most likely to experience an expansion of specialty crops on base acres would be California, southeastern Washington, southern

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[6] For more detailed information and analysis of this issue, see CRS Report RS22187, *U.S. Agricultural Policy Response to WTO Cotton Decision*; and CRS Report RL33697, *Potential Challenges to U.S. Farm Subsidies in the WTO*.

[7] USDA, ERS. *Eliminating Fruit and Vegetable Planting Restrictions: How Would Markets Be Affected?* Report No. 30. November 2006. Available at [http://www.ers.usda.gov].

Idaho, the area from North Dakota through the upper Midwest to northwestern New York, and the coastal plain in the southeastern states.

Government Purchases for Nutrition Programs

USDA directly purchases and then donates a variety of non-price supported commodities, including fruit, vegetable and tree nut products, for consumption through domestic nutrition and food assistance programs. These purchases and donations help groups of nutritionally vulnerable recipients (such as low-income school children, participants at family child care homes, and others) to eat a healthy diet and avoid hunger, while also helping to balance supply and demand for various commodities.

Section 10603 of the 2002 farm bill included a provision setting a minimum threshold of $200 million in Section 32 funds to purchase fruits and vegetables for donation to schools.[8] USDA subsequently interpreted the law to mean that the minimum threshold applied to current purchases, whereas Congress and stakeholder groups argued that it was intended to provide for an additional $200 million in fruit and vegetable purchases above the existing program. Proponents of additional funds said they were intended to support the purchase of fresh fruits and vegetables to be delivered to schools through a system especially suited to delivering small lots of fresh produce (the majority of current program purchases are of canned, frozen, and dried commodities, due to the volume purchased and their distribution nationwide). As USDA is continuing to operate under its interpretation of the 2002 provision, this issue is expected to arise during the 2007 farm bill deliberations.

The 2004 Act: Provisions for Further Consideration

Block Grants to States, Mandatory Funding? The key provision of the Specialty Crops Competitiveness Act of 2004 (P.L. 108-465) is the authorization, through FY2009, of a program of block grants to states to support projects in research, marketing, education, pest and disease management, production, and food safety. In most states, the state Department of Agriculture administers this program. The initial bill (H.R. 3242) called for an annual expenditure of $470 million in mandatory funds from the Commodity Credit Corporation (CCC) to support the specialty crop block grant program.[9] The final bill instead authorized the program subject to annual appropriations, and limited annual funding to $44.5 million in FY2005-FY2009. Congress appropriated $7 million for the program for FY2006. At the time the 109th Congress adjourned, the House-passed FY2007 USDA

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[8] Section 32 is a permanent appropriation that since 1935 has earmarked the equivalent of 30% of annual customs receipts to support the farm sector through a variety of activities, the largest of which is purchasing food commodities for the child nutrition and other domestic food programs. For more information on this program, see CRS Report RS20235, *Farm and Food Support under USDA'S Section 32 Program.*

[9] The CCC is a wholly owned government corporation within USDA with the authority to have up to $30 billion in outstanding debt to the U.S. Treasury. The CCC repays the funds it borrows primarily through its regular annual appropriation. It serves as the funding mechanism for the farm commodity price and income support programs.

appropriations bill contained $15.6 million for the program, and the Senate-reported measure contained $10 million.

Expansion of this program and a renewed effort to obtain mandatory funding are expected to be subjects of considerable debate once the 2007 farm bill debate begins. Proponents maintain that the block grants approach permits each state to tailor activities to fit the particular needs of its specialty crop producers and processors. Critics point to a similar, one-time, mandatory program in 2001, where it subsequently was determined that some states were not as effective as others in administering projects that had identifiable benefits.[10]

The larger issue, however, is whether the program should be supported with mandatory or discretionary funds. Those favoring the former argue that the value of the specialty crop industry to the U.S. farm sector warrants greater investment in its economic well-being from the federal government. Specialty crop industry representatives speak in favor of support for programs — like block grants — that encourage private investment and drive demand and competitiveness in the United States and globally, but are not perceived to distort domestic production or international markets. Current high deficit levels, however, pose a problem for increasing mandatory funding for agriculture without making offsets in the commodity or nutrition programs. Producer groups and lawmakers from states where commodity crops predominate are not in favor of redirecting money to support specialty crop programs if that means reducing the current level of support for the commodity programs. Reducing spending on domestic food assistance programs is likewise controversial.

Facilitating Exports. Fruits, vegetables, and tree nuts now account for 17% of the value of U.S. agricultural exports, according to ERS. Nonetheless, the industry generally maintains that other countries' requirements concerning the pest and disease (phytosanitary) status of imported fruits and vegetables frequently pose a significant challenge to expanding markets for U.S. specialty crops.

The 2004 act authorizes $2 million in additional appropriated funds for an existing program, the Targeted Assistance for Specialty Crops (TASC) program, which supports projects aimed at overcoming specific non-tariff trade barriers.[11] TASC currently receives $2 million annually in mandatory CCC funds. Other specialty crop proposals in the 109th Congress would have authorized $10 million annually in additional funds for the TASC program.

The 2004 act, particularly as introduced, contained a wide variety of additional items intended to give specialty crops a higher profile within USDA export programs

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[10] House Committee on Agriculture, Subcommittee on Livestock and Horticulture, Hearing, November 5, 2003, Serial No. 108-20, *Review of Domestic Policies Affecting the Specialty Crop Industry*. Available at [http://www.gpo.gov/congress/house].

[11] The TASC program is administered by USDA's Foreign Agricultural Service (FAS). For background information on this and other USDA programs affecting specialty crops, see CRS Report RL32746, *Fruits, Vegetables and Other Specialty Crops: A Primer on Government Programs.*

and in the context of multilateral and bilateral trade negotiations. Policy issues that might arise during the farm bill debate could include (1) ways to expedite USDA's process for certifying that fruit and vegetable exports meet foreign countries' phytosanitary regulations; (2) the development of a comprehensive foreign market access strategy for specialty crops; (3) the creation of a position within the Office of the U.S. Trade Representative (USTR) that would be solely responsible for trade matters related to specialty crops; (4) the establishment of a position within USDA to coordinate the specialty crop-related activities of various agencies; (5) whether existing export credit programs could be modified to increase exports; and (6) commissioning a study to determine the effects of recent multi- and bilateral trade agreements on the economic health of the domestic industry and on the lowering of barriers to U.S. exports.

Protection from Diseases and Pests. The Specialty Crops Competitiveness Act of 2004 (P.L. 108-465) also addressed issues concerning APHIS's regulation of imported produce. Critics have charged that APHIS import decisions, in particular, are made by agency scientists and officials who might not always consult the fullest range of scientific information available on the potential harm that an imported pest or disease could cause. P.L. 108-465 required APHIS to enter into an agreement with the National Plant Board, a non-profit organization of plant pest regulatory agencies in the states, to conduct a one-time peer review of the procedures and standards under which APHIS considers specialty crop import and export petitions.

The original bill called for a more comprehensive and permanent solution to the critics' charges: H.R. 3242 would have required APHIS to establish an independent scientific and technical peer review process for the agency's import (as well as export) decisions that could be activated as necessary, depending upon a number of triggering factors.

On the basis of the National Plant Board review, which was completed in July 2006, Congress may consider other policy options related to this issue. While the National Plant Board recommends in favor of instituting a peer review system for risk analysis, its foremost recommendations are that APHIS (1) consolidate its risk management function so that resources can be redirected from lower- to higher-risk situations (e.g., away from routine import requests and toward nursery stock and noxious weeds); (2) improve risk communications to stakeholders to clarify how scientific evidence is tied to risk management decisions; and (3) increase the resources directed to risk analyses needed in support of export requests (among other recommendations).[12]

The 2004 act also authorized $1 million to be appropriated annually to establish a Pest and Disease Response Fund within the U.S. Treasury to support APHIS emergency pest eradication and research activities. Congress has not made funds

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[12] *Peer Review Report of the Procedures and Standards that Govern the Consideration of Import and Export Requests Under the Plant Protection Act*. A Report Presented by the National Plant Board to the Secretary of Agriculture and the U.S. Congress. July 2006. Available online at [http://nationalplantboard.org/].

available to date for this purpose. The provision thus may come up for further discussion, along with the level of funding for such an account. The provision in H.R. 3242 would have given the authority for annual appropriations of such sums as necessary to achieve a $75 million balance at the beginning of each fiscal year.

Relatedly, H.R. 3242 would have moved the Office of Pest Management Policy from USDA's in-house science agency, the Agricultural Research Service (ARS), to the Office of the Secretary, and authorized $5 million in annual appropriations for its activities. The final law does not contain this provision. The Office of Pest Management Policy was established in 1997 to play a broad role in coordinating the many USDA programs related to pest management issues. It was located in ARS to facilitate the contribution of research findings to the regulatory process, among other things. Proponents of moving the Office from ARS into the Office of the Secretary say that it would highlight its importance and make it more effective.

Research. The 2004 act authorized an annual appropriation of $5 million to support research on alternatives to the soil and crop fumigant, methyl bromide, which is being phased out under an international agreement to reduce the use of gases that damage Earth's protective ozone layer.[13] Under its regular appropriation, ARS used $18.3 million in FY2006 for methyl bromide research. Federal dollars also support research on methyl bromide alternatives at the land grant colleges of agriculture in each state. In FY2005, an estimated $4 million supported such research. No additional funds have been appropriated to date under the authority granted in the 2004 act.

The final bill did not include a larger research provision in the original measure that would have authorized USDA to spend $30 million annually in mandatory CCC funds for a National Specialty Crops Development Initiative. Under the initiative, USDA would award grants on a competitive basis to projects addressing short-, intermediate-, and long-term needs in production technology, mechanization, marketing, product development, food security, and food safety, among other things.

Congress traditionally supports agricultural research through annual appropriations of discretionary funds. Previous legislative attempts to gain mandatory funding for research have had very limited success. For the most part, appropriators have blocked the use of mandatory funds authorized for previous agricultural research initiatives and used the savings to support existing programs.

Additional Proposals

In addition to the policy options discussed above, P.L. 108-465 as originally introduced contained additional provisions in areas that the final bill did not address at all. Some of these proposals, and others, appeared in other legislation that was introduced in the 109th Congress. Each could potentially come under consideration during the 2007 farm bill debate. Briefly, they are as follows:

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[13] For complete information on ozone depletion rules and regulations and the phase-out of methyl bromide, see [http://www.epa.gov/ozone/mbr/index.html].

- Raise the limit that an individual specialty crop producer may borrow in direct operating loans from $200,000 to $500,000
- Raise the limit that an individual specialty crop producer may borrow in government guaranteed operating loans from private banks from $700,000 to $1.5 million
- Increase the amount that fruit and nut growers can receive under the Tree Assistance Program from $75,000 to $150,000 annually in the event of natural disasters
- Expand the adjusted gross revenue (AGR) insurance pilot program permanently to cover any county nationwide where crops, including specialty crops, are produced
- Establish an office in USDA solely to encourage the development and protection of intellectual property rights in plants and to serve as an advocate for the interests of specialty crops in domestic and international intellectual property rights matters
- Amend current patent law to facilitate obtaining patents for new plant varieties in order to improve enforcement of suspected infringements
- Allow marketing orders to include implementation of certain food safety programs, such as Good Agricultural Practices, Good Handling Practices, ISO 2000, etc.
- Reimburse producers and processors who obtain certification under standardized food safety programs
- Establish a program to educate consumers and handlers of fresh produce on proven practices for reducing microbial contamination
- Authorize the use of $5 million annually in mandatory CCC funds to establish a network of "National Clean Plant Centers" to produce, store, and make available disease- and pest-free materials for public and private laboratories and nurseries
- Remove the income limitation for eligibility under the Environmental Quality Incentives Program (EQIP)
- Provide education and technical assistance to assist specialty crop growers applying for conservation programs
- Require USDA to give priority in eligibility for conservation programs to specialty crop producers who follow voluntary sustainable practices guidelines
- Require USDA to use $9 million in mandatory CCC funds in FY2007 to provide timely price information on specialty crops, and in subsequent years provide increased funding indexed to inflation
- Add fish and shellfish to the definition of specialty crop.

Outlook

Since the enactment of the Specialty Crops Competitiveness Act in 2004, spokespersons in public forums and at congressional hearings have continued to state that the specialty crops sector wants greater federal investment in research, marketing, pest and disease protection, nutrition programs, conservation programs, disaster assistance, crop insurance, and export development. These approaches, they maintain, do not distort production with respect to U.S. and global markets, but together would provide a safety net for producers and open the door to future growth.

Consideration of a 2007 farm bill is expected to provide a forum in which the above policies will be debated, and observers note that new factors are likely to shape the discussion. The future of the restriction on planting fruits and vegetables on program base acres is as linked to WTO-related issues as it is to the economic well-being of specialty crop growers, for example. Any changes in current policy are likely to increase pressure to consider new, non-trade distorting mechanisms not only to support the specialty crop sector but perhaps also the producers of program crops.

Also likely to be at issue is whether a significant federal investment in programs of benefit to specialty crops could be made with mandatory funds. Had P.L. 108-465 passed as originally written, $508 million in mandatory funds would have supported specialty crop programs annually. Although previous proposals to redirect commodity program funding toward other types of support have not succeeded, trade, budget, and equity factors are shaping a context for 2007 farm bill consideration that appears to differ significantly from 2002.

Appendix A.

Figure 1. Value of Vegetables, Melons, Potatoes, and Sweet Potatoes as Percent of Total Market Value of Agricultural Products Sold: 2002

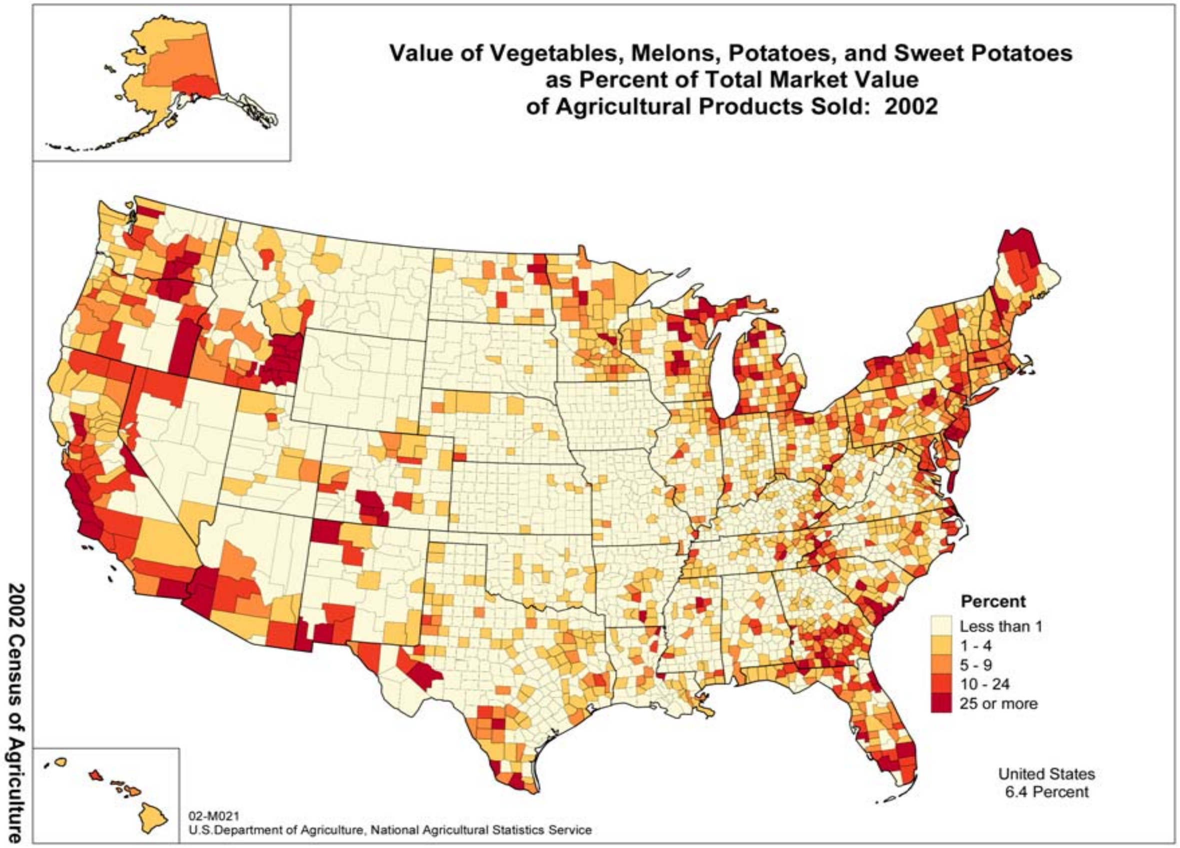

Figure 2. Value of Fruits, Tree Nuts and Berries as Percent of Total Market Value of Agricultural Products Sold: 2002

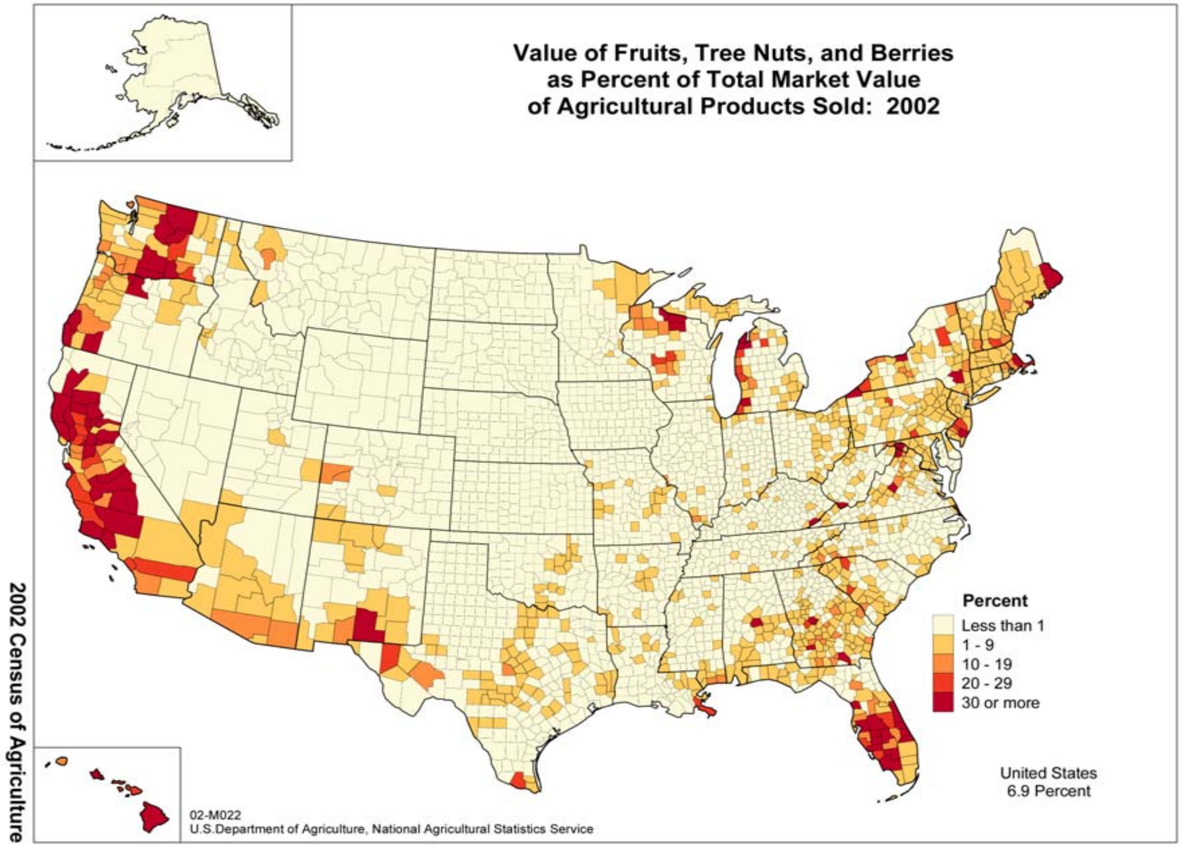

Figure 3. Value of Nursery, Greenhouse, Floriculture, and Sod as Percent of Total Market Value of Agricultural Products Sold: 2002