

retary of Health and Human Services, Secretary of Homeland Security, and Secretary of Agriculture, shall provide support for, and technical assistance to, State, local, and tribal governments in preparing for, assessing, decontaminating, and recovering from an agriculture or food emergency.

(b) Development of standards

In carrying out subsection (a), the Administrator, in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, Secretary of Agriculture, and State, local, and tribal governments, shall develop and disseminate specific standards and protocols to undertake clean-up, clearance, and recovery activities following the decontamination and disposal of specific threat agents and foreign animal diseases.

(c) Development of model plans

In carrying out subsection (a), the Administrator, the Secretary of Health and Human Services, and the Secretary of Agriculture shall jointly develop and disseminate model plans for—

- (1) the decontamination of individuals, equipment, and facilities following an intentional contamination of agriculture or food; and
- (2) the disposal of large quantities of animals, plants, or food products that have been infected or contaminated by specific threat agents and foreign animal diseases.

(d) Exercises

In carrying out subsection (a), the Administrator, in coordination with the entities described under subsection (b), shall conduct exercises at least annually to evaluate and identify weaknesses in the decontamination and disposal model plans described in subsection (c). Such exercises shall be carried out, to the maximum extent practicable, as part of the national exercise program under section 748(b)(1) of title 6.

(e) Modifications

Based on the exercises described in subsection (d), the Administrator, in coordination with the entities described in subsection (b), shall review and modify as necessary the plans described in subsection (c) not less frequently than biennially.

(f) Prioritization

The Administrator, in coordination with the entities described in subsection (b), shall develop standards and plans under subsections (b) and (c) in an identified order of priority that takes into account—

- (1) highest-risk biological, chemical, and radiological threat agents;
- (2) agents that could cause the greatest economic devastation to the agriculture and food system; and
- (3) agents that are most difficult to clean or remediate.

(Pub. L. 111-353, title II, §208, Jan. 4, 2011, 124 Stat. 3944.)

SUBCHAPTER III—IMPROVING THE SAFETY OF IMPORTED FOOD

§ 2241. Inspection by the Secretary of Commerce

(1) In general

The Secretary of Commerce, in coordination with the Secretary of Health and Human Services, may send 1 or more inspectors to a country or facility of an exporter from which seafood imported into the United States originates. The inspectors shall assess practices and processes used in connection with the farming, cultivation, harvesting, preparation for market, or transportation of such seafood and may provide technical assistance related to such activities.

(2) Inspection report

(A) In general

The Secretary of Health and Human Services, in coordination with the Secretary of Commerce, shall—

- (i) prepare an inspection report for each inspection conducted under paragraph (1);
- (ii) provide the report to the country or exporter that is the subject of the report; and
- (iii) provide a 30-day period during which the country or exporter may provide a rebuttal or other comments on the findings of the report to the Secretary of Health and Human Services.

(B) Distribution and use of report

The Secretary of Health and Human Services shall consider the inspection reports described in subparagraph (A) in distributing inspection resources under section 350j of this title.

(Pub. L. 111-353, title III, §306(b), Jan. 4, 2011, 124 Stat. 3959.)

§ 2242. Foreign offices of the Food and Drug Administration

(a) In general

The Secretary shall establish offices of the Food and Drug Administration in foreign countries selected by the Secretary, to provide assistance to the appropriate governmental entities of such countries with respect to measures to provide for the safety of articles of food and other products regulated by the Food and Drug Administration exported by such country to the United States, including by directly conducting risk-based inspections of such articles and supporting such inspections by such governmental entity.

(b) Consultation

In establishing the foreign offices described in subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Homeland Security, and the United States Trade Representative.

(c) Report

Not later than October 1, 2011, the Secretary shall submit to Congress a report on the basis for the selection by the Secretary of the foreign countries in which the Secretary established offices, the progress which such offices have made with respect to assisting the governments of

such countries in providing for the safety of articles of food and other products regulated by the Food and Drug Administration exported to the United States, and the plans of the Secretary for establishing additional foreign offices of the Food and Drug Administration, as appropriate.

(Pub. L. 111-353, title III, §308, Jan. 4, 2011, 124 Stat. 3966.)

REFERENCES IN TEXT

The Secretary, referred to in text, probably means the Secretary of Health and Human Services.

§ 2243. Smuggled food

(a) In general

Not later than 180 days after January 4, 2011, the Secretary shall, in coordination with the Secretary of Homeland Security, develop and implement a strategy to better identify smuggled food and prevent entry of such food into the United States.

(b) Notification to Homeland Security

Not later than 10 days after the Secretary identifies a smuggled food that the Secretary believes would cause serious adverse health consequences or death to humans or animals, the Secretary shall provide to the Secretary of Homeland Security a notification under section 350f(n) of this title describing the smuggled food and, if available, the names of the individuals or entities that attempted to import such food into the United States.

(c) Public notification

If the Secretary—

- (1) identifies a smuggled food;
- (2) reasonably believes exposure to the food would cause serious adverse health consequences or death to humans or animals; and
- (3) reasonably believes that the food has entered domestic commerce and is likely to be consumed,

the Secretary shall promptly issue a press release describing that food and shall use other emergency communication or recall networks, as appropriate, to warn consumers and vendors about the potential threat.

(d) Effect of section

Nothing in this section shall affect the authority of the Secretary to issue public notifications under other circumstances.

(e) Definition

In this subsection, the term “smuggled food” means any food that a person introduces into the United States through fraudulent means or with the intent to defraud or mislead.

(Pub. L. 111-353, title III, §309, Jan. 4, 2011, 124 Stat. 3966.)

REFERENCES IN TEXT

The Secretary, referred to in text, probably means the Secretary of Health and Human Services.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§ 2251. Jurisdiction; authorities

Nothing in this Act, or an amendment made by this Act, shall be construed to—

(1) alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services, under applicable statutes, regulations, or agreements regarding voluntary inspection of non-amenable species under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.);

(2) alter the jurisdiction between the Alcohol and Tobacco Tax and Trade Bureau and the Secretary of Health and Human Services, under applicable statutes and regulations;

(3) limit the authority of the Secretary of Health and Human Services under—

(A) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before January 4, 2011; or

(B) the Public Health Service Act [42 U.S.C. 201 et seq.] as in effect on the day before January 4, 2011;

(4) alter or limit the authority of the Secretary of Agriculture under the laws administered by such Secretary, including—

(A) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(B) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(D) the United States Grain Standards Act (7 U.S.C. 71 et seq.);

(E) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(F) the United States Warehouse Act (7 U.S.C. 241 et seq.);

(G) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); and

(H) the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with the amendments made by the Agricultural Marketing Agreement Act of 1937; or

(5) alter, impede, or affect the authority of the Secretary of Homeland Security under the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) or any other statute, including any authority related to securing the borders of the United States, managing ports of entry, or agricultural import and entry inspection activities.

(Pub. L. 111-353, title IV, §403, Jan. 4, 2011, 124 Stat. 3972.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 111-353, Jan. 4, 2011, 124 Stat. 3885, known as the FDA Food Safety Modernization Act, which enacted this chapter and sections 350g to 350l-1, 379j-31, 384a to 384d, 399c, and 399d of this title, section 7625 of Title 7, Agriculture, and section 280g-16 of Title 42, The Public Health and Welfare, amended sections 331, 333, 334, 350b to 350d, 350f, 374, 381, 393, and 399 of this title and section 247b-20 of Title 42, and enacted provisions set out as notes under sections 331, 334, 342, 350b, 350d, 350e, 350g to 350j, 350l, and 381 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

The Agricultural Marketing Act of 1946, referred to in pars. (1) and (4)(G), is title II of act Aug. 14, 1946, ch. 966, 60 Stat. 1087, which is classified generally to chapter 38 (§1621 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of Title 7 and Tables.