

**§ 7712. Regulation of movement of plants, plant products, biological control organisms, noxious weeds, articles, and means of conveyance**

**(a) In general**

The Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination of a plant pest or noxious weed within the United States.

**(b) Policy**

The Secretary shall ensure that processes used in developing regulations under this section governing consideration of import requests are based on sound science and are transparent and accessible.

**(c) Regulations**

The Secretary may issue regulations to implement subsection (a), including regulations requiring that any plant, plant product, biological control organism, noxious weed, article, or means of conveyance imported, entered, to be exported, or moved in interstate commerce—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, or movement in interstate commerce;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant, plant product, biological control organism, noxious weed, article, or means of conveyance is to be moved;

(3) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests or noxious weeds; and

(4) with respect to plants or biological control organisms, be grown or handled under post-entry quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the plant or biological control organism may be infested with plant pests or may be a plant pest or noxious weed.

**(d) Notice**

Not later than 1 year after June 20, 2000, the Secretary shall publish for public comment a notice describing the procedures and standards that govern the consideration of import requests. The notice shall—

(1) specify how public input will be sought in advance of and during the process of promulgating regulations necessitating a risk assessment in order to ensure a fully transparent and publicly accessible process; and

(2) include consideration of the following:

(A) Public announcement of import requests that will necessitate a risk assessment.

(B) A process for assigning major/nonroutine or minor/routine status to such requests based on current state of supporting scientific information.

(C) A process for assigning priority to requests.

(D) Guidelines for seeking relevant scientific and economic information in advance of initiating informal rulemaking.

(E) Guidelines for ensuring availability and transparency of assumptions and uncertainties in the risk assessment process including applicable risk mitigation measures relied upon individually or as components of a system of mitigative measures proposed consistent with the purposes of this chapter.

**(e) Study and report on systems approach**

**(1) Study**

The Secretary shall conduct a study of the role for and application of systems approaches designed to guard against the introduction of plant pathogens into the United States associated with proposals to import plants or plant products into the United States.

**(2) Participation by scientists**

In conducting the study the Secretary shall ensure participation by scientists from State departments of agriculture, colleges and universities, the private sector, and the Agricultural Research Service.

**(3) Report**

Not later than 2 years after June 20, 2000, the Secretary shall submit a report on the results of the study conducted under this section to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

**(f) Noxious weeds**

**(1) Regulations**

In the case of noxious weeds, the Secretary may publish, by regulation, a list of noxious weeds that are prohibited or restricted from entering the United States or that are subject to restrictions on interstate movement within the United States.

**(2) Petition to add or remove plants from regulation**

Any person may petition the Secretary to add a plant species to, or remove a plant species from, the regulations issued by the Secretary under this subsection.

**(3) Duties of the Secretary**

In the case of a petition submitted under paragraph (2), the Secretary shall act on the petition within a reasonable time and notify the petitioner of the final action the Secretary takes on the petition. The Secretary's determination on the petition shall be based on sound science.

**(g) Biological control organisms**

**(1) Regulations**

In the case of biological control organisms, the Secretary may publish, by regulation, a list of organisms whose movement in interstate commerce is not prohibited or restricted. Any listing may take into account distinctions between organisms such as indigenous, nonindigenous, newly introduced, or commercially raised.

**(2) Petition to add or remove biological control organisms from the regulations**

Any person may petition the Secretary to add a biological control organism to, or remove a biological control organism from, the regulations issued by the Secretary under this subsection.

**(3) Duties of the Secretary**

In the case of a petition submitted under paragraph (2), the Secretary shall act on the petition within a reasonable time and notify the petitioner of the final action the Secretary takes on the petition. The Secretary's determination on the petition shall be based on sound science.

(Pub. L. 106–224, title IV, § 412, June 20, 2000, 114 Stat. 441.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(2)(E), was in the original “this title”, meaning title IV of Pub. L. 106–224, June 20, 2000, 114 Stat. 438, known as the Plant Protection Act, which is classified principally to this chapter. For complete classification of title IV to the Code, see Short Title note set out under section 7701 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under this chapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 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.

(Pub. L. 108–465, title II, § 202, Dec. 21, 2004, 118 Stat. 3884.)

CODIFICATION

Section was enacted as part of the Specialty Crops Competitiveness Act of 2004, and not as part of the Plant Protection Act which comprises this chapter.

**§ 7713. Notification and holding requirements upon arrival**

**(a) Duty of Secretary of the Treasury**

**(1) Notification**

The Secretary of the Treasury shall promptly notify the Secretary of Agriculture of the arrival of any plant, plant product, biological control organism, plant pest, or noxious weed at a port of entry.

**(2) Holding**

The Secretary of the Treasury shall hold a plant, plant product, biological control organism, plant pest, or noxious weed for which notification is made under paragraph (1) at the port of entry until the plant, plant product, biological control organism, plant pest, or noxious weed—

- (A) is inspected and authorized for entry into or transit movement through the United States; or
- (B) is otherwise released by the Secretary of Agriculture.

**(3) Exceptions**

Paragraphs (1) and (2) shall not apply to any plant, plant product, biological control organism, plant pest, or noxious weed that is imported from a country or region of a country designated by the Secretary of Agriculture, pursuant to regulations, as exempt from the requirements of such paragraphs.

**(b) Duty of responsible parties**

**(1) Notification**

The person responsible for any plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance required to have a permit under section 7711 or 7712 of this title shall provide the notification described in paragraph (3) as soon as possible after the arrival of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance at a port of entry and before the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is moved from the port of entry.

**(2) Submission**

The notification shall be provided to the Secretary, or, at the Secretary's direction, to the proper official of the State to which the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance is destined, or both, as the Secretary may prescribe.

**(3) Elements of notification**

The notification shall consist of the following:

- (A) The name and address of the consignee.
- (B) The nature and quantity of the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance proposed to be moved.