

**(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.

(C) The country and locality where the plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance was grown, produced, or located.

**(c) Prohibition on movement of items without authorization**

No person shall move from a port of entry or interstate any imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance unless the imported plant, plant product, biological control organism, plant pest, noxious weed, article, or means of conveyance—

- (1) is inspected and authorized for entry into or transit movement through the United States; or
- (2) is otherwise released by the Secretary.

(Pub. L. 106-224, title IV, §413, June 20, 2000, 114 Stat. 443.)

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.

**§ 7714. General remedial measures for new plant pests and noxious weeds**

**(a) Authority to hold, treat, or destroy items**

If the Secretary considers it necessary in order to prevent the dissemination of a plant pest or noxious weed that is new to or not known to be widely prevalent or distributed within and throughout the United States, the Secretary may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of any plant, plant pest, noxious weed, biological control organism, plant product, article, or means of conveyance that—

- (1) is moving into or through the United States or interstate, or has moved into or through the United States or interstate, and—
  - (A) the Secretary has reason to believe is a plant pest or noxious weed or is infested with a plant pest or noxious weed at the time of the movement; or
  - (B) is or has been otherwise in violation of this chapter;
- (2) has not been maintained in compliance with a post-entry quarantine requirement; or
- (3) is the progeny of any plant, biological control organism, plant product, plant pest, or noxious weed that is moving into or through the United States or interstate, or has moved into the United States or interstate, in violation of this chapter.

**(b) Authority to order an owner to treat or destroy**

**(1) In general**

The Secretary may order the owner of any plant, biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance subject to action under subsection (a) to treat, apply other remedial

measures to, destroy, or otherwise dispose of the plant, biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance, without cost to the Federal Government and in the manner the Secretary considers appropriate.

**(2) Failure to comply**

If the owner fails to comply with the Secretary's order under this subsection, the Secretary may take an action authorized by subsection (a) and recover from the owner the costs of any care, handling, application of remedial measures, or disposal incurred by the Secretary in connection with actions taken under subsection (a).

**(c) Classification system**

**(1) Development required**

To facilitate control of noxious weeds, the Secretary may develop a classification system to describe the status and action levels for noxious weeds. The classification system may include the current geographic distribution, relative threat, and actions initiated to prevent introduction or distribution.

**(2) Management plans**

In conjunction with the classification system, the Secretary may develop integrated management plans for noxious weeds for the geographic region or ecological range where the noxious weed is found in the United States.

**(d) Application of least drastic action**

No plant, biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance shall be destroyed, exported, or returned to the shipping point of origin, or ordered to be destroyed, exported, or returned to the shipping point of origin under this section unless, in the opinion of the Secretary, there is no less drastic action that is feasible and that would be adequate to prevent the dissemination of any plant pest or noxious weed new to or not known to be widely prevalent or distributed within and throughout the United States.

(Pub. L. 106-224, title IV, §414, June 20, 2000, 114 Stat. 444; Pub. L. 107-171, title X, §10418(b)(1), May 13, 2002, 116 Stat. 508.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1)(B), (3), 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.

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107-171, §10418(b)(1)(A), struck out " , or the owner's agent," after "subsection (a)".

Subsec. (b)(2). Pub. L. 107-171, §10418(b)(1)(B), struck out "or agent of the owner" after "the owner" in two places.

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry in-