

spection 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.

§ 7715. Declaration of extraordinary emergency and resulting authorities

(a) Authority to declare

If the Secretary determines that an extraordinary emergency exists because of the presence of a plant pest or noxious weed that is new to or not known to be widely prevalent in or distributed within and throughout the United States and that the presence of the plant pest or noxious weed threatens plants or plant products of the United States, the Secretary may—

(1) hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, any plant, biological control organism, plant product, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(2) quarantine, treat, or apply other remedial measures to any premises, including any plants, biological control organisms, plant products, articles, or means of conveyance on the premises, that the Secretary has reason to believe is infested with the plant pest or noxious weed;

(3) quarantine any State or portion of a State in which the Secretary finds the plant pest or noxious weed or any plant, biological control organism, plant product, article, or means of conveyance that the Secretary has reason to believe is infested with the plant pest or noxious weed; and

(4) prohibit or restrict the movement within a State of any plant, biological control organism, plant product, article, or means of conveyance when the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the plant pest or noxious weed or to eradicate the plant pest or noxious weed.

(b) Required finding of emergency

The Secretary may take action under this section only upon finding, after review and consultation with the Governor or other appropriate official of the State affected, that the measures being taken by the State are inadequate to eradicate the plant pest or noxious weed.

(c) Notification procedures

(1) In general

Except as provided in paragraph (2), before any action is taken in any State under this section, the Secretary shall notify the Governor or other appropriate official of the State affected, issue a public announcement, and file for publication in the Federal Register a statement of—

- (A) the Secretary's findings;
- (B) the action the Secretary intends to take;
- (C) the reasons for the intended action; and

(D) where practicable, an estimate of the anticipated duration of the extraordinary emergency.

(2) Time sensitive actions

If it is not possible to file for publication in the Federal Register prior to taking action, the filing shall be made within a reasonable time, not to exceed 10 business days, after commencement of the action.

(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.

(e) Payment of compensation

The Secretary may pay compensation to any person for economic losses incurred by the person as a result of action taken by the Secretary under this section. The determination by the Secretary of the amount of any compensation to be paid under this subsection shall be final and shall not be subject to judicial review or a review by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

(Pub. L. 106-224, title IV, § 415, June 20, 2000, 114 Stat. 445; Pub. L. 107-171, title VII, § 7504(a), May 13, 2002, 116 Stat. 465; Pub. L. 110-234, title X, § 10203(a), May 22, 2008, 122 Stat. 1342; Pub. L. 110-246, § 4(a), title X, § 10203(a), June 18, 2008, 122 Stat. 1664, 2104.)

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110-246, § 10203(a), struck out “of longer than 60 days” after “or a review”.

2002—Subsec. (e). Pub. L. 107-171 inserted before period at end “or a review of longer than 60 days by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

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.

§ 7716. Recovery of compensation for unauthorized activities

(a) Recovery action

The owner of any plant, plant biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance destroyed or otherwise disposed of by the Secretary under section 7714 or 7715 of this title may bring an action against the United States to recover just compensation for the destruction or disposal of the plant, plant biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance (not including compensation for loss due to delays incident to determining eligibility for importation, entry, exportation, movement in interstate commerce, or release into the environment), but only if the owner establishes that the destruction or disposal was not authorized under this chapter.

(b) Time for action; location

An action under this section shall be brought not later than 1 year after the destruction or disposal of the plant, plant biological control organism, plant product, plant pest, noxious weed, article, or means of conveyance involved. The action may be brought in any United States district court where the owner is found, resides, transacts business, is licensed to do business, or is incorporated.

(Pub. L. 106-224, title IV, § 416, June 20, 2000, 114 Stat. 447.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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.

§ 7717. Control of grasshoppers and Mormon crickets

(a) In general

Subject to the availability of funds pursuant to this section, the Secretary shall carry out a program to control grasshoppers and Mormon crickets on all Federal lands to protect rangeland.

(b) Transfer authority

(1) In general

Subject to paragraph (3), upon the request of the Secretary of Agriculture, the Secretary of the Interior shall transfer to the Secretary of Agriculture, from any no-year appropriations, funds for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on Federal lands under the jurisdiction of the Secretary of the Interior. The transferred funds shall be available only for the payment of obligations incurred on such Federal lands.

(2) Transfer requests

Requests for the transfer of funds pursuant to this subsection shall be made as promptly as possible by the Secretary.

(3) Limitation

Funds transferred pursuant to this subsection may not be used by the Secretary until

funds specifically appropriated to the Secretary for grasshopper control have been exhausted.

(4) Replenishment of transferred funds

Funds transferred pursuant to this subsection shall be replenished by supplemental or regular appropriations, which shall be requested as promptly as possible.

(c) Treatment for grasshoppers and Mormon crickets

(1) In general

Subject to the availability of funds pursuant to this section, on request of the administering agency or the agriculture department of an affected State, the Secretary, to protect rangeland, shall immediately treat Federal, State, or private lands that are infested with grasshoppers or Mormon crickets at levels of economic infestation, unless the Secretary determines that delaying treatment will not cause greater economic damage to adjacent owners of rangeland.

(2) Other programs

In carrying out this section, the Secretary shall work in conjunction with other Federal, State, and private prevention, control, or suppression efforts to protect rangeland.

(d) Federal cost share of treatment

(1) Control on Federal lands

Out of funds made available or transferred under this section, the Secretary shall pay 100 percent of the cost of grasshopper or Mormon cricket control on Federal lands to protect rangeland.

(2) Control on State lands

Out of funds made available under this section, the Secretary shall pay 50 percent of the cost of grasshopper or Mormon cricket control on State lands.

(3) Control on private lands

Out of funds made available under this section, the Secretary shall pay 33.3 percent of the cost of grasshopper or Mormon cricket control on private lands.

(e) Training

From appropriated funds made available or transferred by the Secretary of the Interior to the Secretary of Agriculture for such purposes, the Secretary of Agriculture shall provide adequate funding for a program to train personnel to accomplish effectively the objective of this section.

(Pub. L. 106-224, title IV, § 417, June 20, 2000, 114 Stat. 447.)

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.

§ 7718. Certification for exports

The Secretary may certify as to the freedom of plants, plant products, or biological control