

**§ 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

organisms from plant pests or noxious weeds, or the exposure of plants, plant products, or biological control organisms to plant pests or noxious weeds, according to the phytosanitary or other requirements of the countries to which the plants, plant products, or biological control organisms may be exported.

(Pub. L. 106-224, title IV, § 418, June 20, 2000, 114 Stat. 448.)

#### 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.

### § 7719. Methyl bromide

#### (a) In general

The Secretary, upon request of State, local, or tribal authorities, shall determine whether methyl bromide treatments or applications required by State, local, or tribal authorities to prevent the introduction, establishment, or spread of plant pests (including diseases) or noxious weeds should be authorized as an official control or official requirement. The Secretary shall not authorize such treatments or applications unless the Secretary finds there is no other registered, effective, and economically feasible alternative available.

#### (b) Methyl bromide alternative

The Secretary, in consultation with State, local and tribal authorities, shall establish a program to identify alternatives to methyl bromide for treatment and control of plant pests and weeds. For uses where no registered, effective, economically feasible alternatives available can currently be identified, the Secretary shall initiate research programs to develop alternative methods of control and treatment.

#### (c) Registry

Not later than 180 days after May 13, 2002, the Secretary shall publish, and thereafter maintain, a registry of State, local, and tribal requirements authorized by the Secretary under this section.

#### (d) Administration

##### (1) Timeline for determination

Upon the promulgation of regulations to carry out this section, the Secretary shall make the determination required by subsection (a) not later than 90 days after receiving the request for such a determination.

##### (2) Construction

Nothing in this section shall be construed to alter or modify the authority of the Administrator of the Environmental Protection Agency or to provide any authority to the Secretary of Agriculture under the Clean Air Act [42 U.S.C. 7401 et seq.] or regulations promulgated under the Clean Air Act.

(Pub. L. 106-224, title IV, § 419, as added Pub. L. 107-171, title VII, § 7504(c), May 13, 2002, 116 Stat. 466.)

#### REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (d)(2), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

### § 7720. National plan for control and management of Sudden Oak Death

#### (a) Development of national plan

Subject to the availability of appropriated funds for this purpose, the Secretary of Agriculture, acting through the Animal Plant and Health Inspection Service, shall develop a national plan for the control and management of Sudden Oak Death, a forest disease caused by the fungus-like pathogen *Phytophthora ramorum*.

#### (b) Plan elements

In developing the plan, the Secretary shall specifically address the following:

(1) Information derived by the Department of Agriculture from ongoing efforts to identify hosts of *Phytophthora ramorum* and survey the extent to which Sudden Oak Death exists in the United States.

(2) Past and current efforts to understand the risk posed by *Phytophthora ramorum* and the results of control and management efforts regarding Sudden Oak Death, including efforts related to research, control, quarantine, and hazardous fuel reduction.

(3) Such future efforts as the Secretary considers necessary to control and manage Sudden Oak Death, including cost estimates for the implementation of such efforts.

#### (c) Consultation

The Secretary shall develop the plan in consultation with other Federal agencies that have appropriate expertise regarding the control and management of Sudden Oak Death.

#### (d) Implementation of plan

The Secretary shall complete the plan and commence implementation as soon as practicable after the date on which funds are first appropriated pursuant to the authorization of appropriations in subsection (e) to carry out this section.

#### (e) Authorization of appropriations

There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

(Pub. L. 108-488, § 1, Dec. 23, 2004, 118 Stat. 3964.)

#### CODIFICATION

Section was not enacted as part of the Plant Protection Act which comprises this chapter.

### § 7721. Plant pest and disease management and disaster prevention

#### (a) Definitions

In this section:

##### (1) Early plant pest detection and surveillance

The term “early plant pest detection and surveillance” means the full range of activi-