

(Pub. L. 107-188, title II, §212, June 12, 2002, 116 Stat. 647; Pub. L. 107-296, title XVII, §1709(b), Nov. 25, 2002, 116 Stat. 2319.)

REFERENCES IN TEXT

Section 262a(a)(1) of title 42, referred to in subsec. (g)(1)(A)(ii), was in the original “section 315A(a)(1) of the Public Health Service Act”, and was translated as meaning section 351A(a)(1) of that Act to reflect the probable intent of Congress, because the Public Health Service Act does not contain a section 315A and section 351A refers to a list of biological agents and toxins.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (g)(1)(C)(ii)(I), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

The Act commonly known as the Virus-Serum-Toxin Act, referred to in subsec. (g)(1)(C)(ii)(III), is the eighth paragraph under the heading “Bureau of Animal Industry” of act Mar. 4, 1913, ch. 145, 37 Stat. 832, as amended, which is classified generally to chapter 5 (§151 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 151 of Title 21 and Tables.

The Federal Insecticide, Fungicide, and Rodenticide Act, referred to in subsec. (g)(1)(C)(ii)(IV), is act June 25, 1947, ch. 125, as amended generally by Pub. L. 92-516, Oct. 21, 1972, 86 Stat. 973, which is classified generally to subchapter II (§136 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

The Plant Protection Act, referred to in subsec. (i)(2), is title IV of Pub. L. 106-224, June 20, 2000, 114 Stat. 438, as amended, which is classified principally to chapter 104 (§7701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

AMENDMENTS

2002—Subsec. (e)(1). Pub. L. 107-296 substituted “collaboration with the Secretary of Homeland Security and” for “consultation with”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

SHORT TITLE

Pub. L. 107-188, title II, §211, June 12, 2002, 116 Stat. 647, provided that: “This subtitle [subtitle B (§§211-213) of title II of Pub. L. 107-188, enacting this subchapter] may be cited as the ‘Agricultural Bioterrorism Protection Act of 2002’.”

IMPLEMENTATION BY DEPARTMENT OF AGRICULTURE

Pub. L. 107-188, title II, §213, June 12, 2002, 116 Stat. 656, provided that:

“(a) DATE CERTAIN FOR PROMULGATION OF LIST.—Not later than 60 days after the date of the enactment of this Act [June 12, 2002], the Secretary of Agriculture (referred to in this section as the ‘Secretary’) shall promulgate an interim final rule that establishes the initial list under section 212(a)(1) [7 U.S.C. 8401(a)(1)]. In promulgating such rule, the Secretary shall provide written guidance on the manner in which the notice required in subsection (b) is to be provided to the Secretary.

“(b) DATE CERTAIN FOR NOTICE OF POSSESSION.—Not later than 60 days after the date on which the Secretary promulgates the interim final rule under subsection (a), all persons (unless exempt under section 212(g) [7 U.S.C. 8401(g)]) in possession of biological agents or toxins included on the list referred to in sub-

section (a) shall notify the Secretary of such possession.

“(c) DATE CERTAIN FOR PROMULGATION; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this Act [June 12, 2002], the Secretary shall promulgate an interim final rule for carrying out section 212 [7 U.S.C. 8401], other than for the list referred to in subsection (a) of this section (but such rule may incorporate by reference provisions promulgated pursuant to subsection (a)). Such interim final rule shall take effect 60 days after the date on which such rule is promulgated, including for purposes of—

“(1) section 175b(c) of title 18, United States Code (relating to criminal penalties), as added by section 231(a)(5) of this Act; and

“(2) section 212(i) of this Act [7 U.S.C. 8401(i)] (relating to civil penalties).

“(d) TRANSITIONAL PROVISION REGARDING CURRENT RESEARCH AND EDUCATION.—The interim final rule under subsection (c) shall include time frames for the applicability of the rule that minimize disruption of research or educational projects that involve biological agents and toxins listed pursuant to section 212(a)(1) [7 U.S.C. 8401(a)(1)] and that were underway as of the effective date of such rule.”

SUBCHAPTER II—INTERAGENCY COORDINATION REGARDING OVERLAP AGENTS AND TOXINS

§ 8411. Interagency coordination

(a) In general

(1) Coordination

The Secretary of Agriculture and the Secretary of Health and Human Services shall in accordance with this section coordinate activities regarding overlap agents and toxins.

(2) Overlap agents and toxins; other terms

For purposes of this section:

(A) The term “overlap agent or toxin” means a biological agent or toxin that—

(i) is listed pursuant to section 315A(a)(1)¹ of the Public Health Service Act [42 U.S.C. 262a(a)(1)], as added by section 201 of this Act; and

(ii) is listed pursuant to section 212(a)(1) of this Act [7 U.S.C. 8401(a)(1)].

(B) The term “section 351A program” means the program under section 351A of the Public Health Service Act [42 U.S.C. 262a].

(C) The term “section 212 program” means the program under section 212 of this Act [7 U.S.C. 8401].

(b) Certain matters

In carrying out the section 351A program and the section 212 program, the Secretary of Health and Human Services and the Secretary of Agriculture shall, to the greatest extent practicable, coordinate activities to achieve the following purposes:

(1) To minimize any conflicts between the regulations issued under, and activities carried out under, such programs.

(2) To minimize the administrative burden on persons subject to regulation under both of such programs.

(3) To ensure the appropriate availability of biological agents and toxins for legitimate

¹ So in original. Probably should be “351A(a)(1)”.

biomedical, agricultural or veterinary research, education, or other such purposes.

(4) To ensure that registration information for overlap agents and toxins under the section 351A and section 212 programs is contained in both the national database under the section 351A program and the national database under the section 212 program.

(c) Memorandum of understanding

(1) In general

Promptly after June 12, 2002, the Secretary of Agriculture and the Secretary of Health and Human Services shall enter into a memorandum of understanding regarding overlap agents and toxins that is in accordance with paragraphs (2) through (4) and contains such additional provisions as the Secretary of Agriculture and the Secretary of Health and Human Services determine to be appropriate.

(2) Single registration system regarding registered persons

The memorandum of understanding under paragraph (1) shall provide for the development and implementation of a single system of registration for persons who possess, use, or transfer overlap agents or toxins and are required to register under both the section 351A program and the section 212 program. For purposes of such system, the memorandum shall provide for the development and implementation of the following:

(A) A single registration form through which the person submitting the form provides all information that is required for registration under the section 351A program and all information that is required for registration under the section 212 program.

(B) A procedure through which a person may choose to submit the single registration form to the agency administering the section 351A program (in the manner provided under such program), or to the agency administering the section 212 program (in the manner provided under such program).

(C) A procedure through which a copy of a single registration form received pursuant to subparagraph (B) by the agency administering one of such programs is promptly provided to the agency administering the other program.

(D) A procedure through which the agency receiving the single registration form under one of such programs obtains the concurrence of the agency administering the other program that the requirements for registration under the other program have been met.

(E) A procedure through which—

(i) the agency receiving the single registration form under one of such programs informs the agency administering the other program whether the receiving agency has denied the registration; and

(ii) each of such agencies ensures that registrations are entered into the national database of registered persons that is maintained by each such agency.

(3) Process of identification

With respect to the process of identification under the section 351A program and the sec-

tion 212 program for names and other identifying information submitted to the Attorney General (relating to certain categories of individuals and entities), the memorandum of understanding under paragraph (1) shall provide for the development and implementation of the following:

(A) A procedure through which a person who is required to submit information pursuant to such process makes (in addition to the submission to the Attorney General) a submission, at the option of the person, to either the agency administering the section 351A program or the agency administering the section 212 program, but not both, which submission satisfies the requirement of submission for both of such programs.

(B) A procedure for the sharing by both of such agencies of information received from the Attorney General by one of such agencies pursuant to the submission under subparagraph (A).

(C) A procedure through which the agencies administering such programs concur in determinations that access to overlap agents and toxins will be granted.

(4) Coordination of inspections and enforcement

The memorandum of understanding under paragraph (1) shall provide for the development and implementation of procedures under which Federal personnel under the section 351A program and the section 212 program may share responsibilities for inspections and enforcement activities under such programs regarding overlap agents and toxins. Activities carried out under such procedures by one of such programs on behalf of the other may be carried out with or without reimbursement by the agency that administers the other program.

(5) Date certain for implementation

The memorandum of understanding under paragraph (1) shall be implemented not later than 180 days after June 12, 2002. Until the single system of registration under paragraph (2) is implemented, persons who possess, use, or transfer overlap agents or toxins shall register under both the section 351A program and the section 212 program.

(d) Joint regulations

Not later than 18 months after the date on which the single system of registration under subsection (c)(2) is implemented, the Secretary of Health and Human Services and the Secretary of Agriculture shall jointly issue regulations for the possession, use, and transfer of overlap agents and toxins that meet the requirements of both the section 351A program and the section 212 program.

(Pub. L. 107-188, title II, §221, June 12, 2002, 116 Stat. 657.)

CHAPTER 111—BROWN TREE SNAKE CONTROL AND ERADICATION

Sec. 8501. Definitions.
8502. Sense of Congress regarding need for improved and better coordinated Federal policy for brown tree snake introduction, control, and eradication.