

“(d) ALLOCATION OF FUNDING.—The Secretaries shall allocate funding made available to carry out this subtitle—

“(1) equally between the uses identified in paragraphs (1) and (2) of subsection (a); and

“(2) among States and Indian tribes based on—

“(A) the level of livestock predation in the State or on the land owned by, or held in trust for the benefit of, the Indian tribe;

“(B) whether the State or Indian tribe is located in a geographical area that is at high risk for livestock predation; or

“(C) any other factors that the Secretaries determine are appropriate.

“(e) ELIGIBLE LAND.—Activities and losses described in subsection (a) may occur on Federal, State, or private land, or land owned by, or held in trust for the benefit of, an Indian tribe.

“(f) FEDERAL COST SHARE.—The Federal share of the cost of any activity provided assistance made available under this subtitle shall not exceed 50 percent of the total cost of the activity.

“SEC. 6203. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated to carry out this subtitle \$1,000,000 for fiscal year 2009 and each fiscal year thereafter.”

§ 8352. Authorization of expenditures for the eradication and control of predatory and other wild animals

The Secretary of Agriculture is authorized to make such expenditures for equipment, supplies, and materials, including the employment of persons and means in the District of Columbia and elsewhere, and to employ such means as may be necessary to execute the functions imposed upon him by section 8351 of this title.

(Mar. 2, 1931, ch. 370, § 3, 46 Stat. 1469.)

CODIFICATION

Section was formerly classified to section 426b of this title prior to editorial reclassification and renumbering as this section.

TRANSFER OF FUNCTIONS

Functions of Secretary of Agriculture administered through Bureau of Biological Survey, relating to conservation of wildlife, game, and migratory birds, transferred to Secretary of the Interior by 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 401 to 404 of said plan for provisions relating to transfer of functions, records, property, personnel, and funds.

§ 8353. Control of nuisance mammals and birds and those constituting reservoirs of zoonotic diseases; exception

On and after December 22, 1987, the Secretary of Agriculture is authorized, except for urban rodent control, to conduct activities and to enter into agreements with States, local jurisdictions, individuals, and public and private agencies, organizations, and institutions in the control of nuisance mammals and birds and those mammal and bird species that are reservoirs for zoonotic diseases, and to deposit any money collected under any such agreement into the appropriation accounts that incur the costs to be available immediately and to remain available until expended for Animal Damage Control activities.

(Pub. L. 100–202, § 101(k) [title I], Dec. 22, 1987, 101 Stat. 1329–322, 1329–331.)

CODIFICATION

Section was formerly classified to section 426c of this title prior to editorial reclassification and renumbering as this section.

§ 8354. Expenditures for cooperative agreements to lease aircraft

On and after November 10, 2005, notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under sections 8351 to 8353¹ of this title, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal and Plant Health Inspection Service, Wildlife Services; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years.

(Pub. L. 109–97, title VII, § 749, Nov. 10, 2005, 119 Stat. 2156.)

REFERENCES IN TEXT

Sections 8351 to 8353 of this title, referred to in text, was in the original a reference to “sections 426–426c of title 7, United States Code” and was translated as meaning act Mar. 2, 1931, ch. 370, 46 Stat. 1468, and Pub. L. 100–202, § 101(k) [title I], Dec. 22, 1987, 101 Stat. 1329–322, 1329–331, which were formerly classified to sections 426 to 426c of this title. Sections 1 and 3 of the act of Mar. 2, 1931, which were formerly classified to sections 426 and 426b of this title, were editorially reclassified as sections 8351 and 8352, respectively, of this title. Section 2 of the act of Mar. 2, 1931, which was formerly classified to section 426a of this title, was omitted from the Code as obsolete. Pub. L. 100–202, § 101(k) [title I], Dec. 22, 1987, 101 Stat. 1329–322, 1329–331, which was formerly classified to section 426c of this title, was editorially reclassified as section 8353 of this title.

CODIFICATION

Section was formerly classified to section 426d of this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 108–447, div. A, title VII, § 758, Dec. 8, 2004, 118 Stat. 2846.

Pub. L. 108–199, div. A, title VII, § 776, Jan. 23, 2004, 118 Stat. 41.

CHAPTER 110—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS

SUBCHAPTER I—DEPARTMENT OF AGRICULTURE

Sec.

8401. Regulation of certain biological agents and toxins.

SUBCHAPTER II—INTERAGENCY COORDINATION REGARDING OVERLAP AGENTS AND TOXINS

8411. Interagency coordination.

¹ See Reference in Text note below.

SUBCHAPTER I—DEPARTMENT OF
AGRICULTURE

§ 8401. Regulation of certain biological agents and toxins

(a) Regulatory control of certain biological agents and toxins

(1) List of biological agents and toxins

(A) In general

The Secretary of Agriculture shall by regulation establish and maintain a list of each biological agent and each toxin that the Secretary determines has the potential to pose a severe threat to animal or plant health, or to animal or plant products.

(B) Criteria

In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

(i) consider—

(I) the effect of exposure to the agent or toxin on animal or plant health, and on the production and marketability of animal or plant products;

(II) the pathogenicity of the agent or the toxicity of the toxin and the methods by which the agent or toxin is transferred to animals or plants;

(III) the availability and effectiveness of pharmacotherapies and prophylaxis to treat and prevent any illness caused by the agent or toxin; and

(IV) any other criteria that the Secretary considers appropriate to protect animal or plant health, or animal or plant products; and

(ii) consult with appropriate Federal departments and agencies and with scientific experts representing appropriate professional groups.

(2) Biennial review

The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall by regulation revise the list as necessary in accordance with such paragraph.

(b) Regulation of transfers of listed agents and toxins

The Secretary shall by regulation provide for—

(1) the establishment and enforcement of safety procedures for the transfer of listed agents and toxins, including measures to ensure—

(A) proper training and appropriate skills to handle such agents and toxins; and

(B) proper laboratory facilities to contain and dispose of such agents and toxins;

(2) the establishment and enforcement of safeguard and security measures to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect animal and plant health, and animal and plant products, in the event of a transfer or potential transfer of such an agent or toxin in

violation of the safety procedures established under paragraph (1) or the safeguard and security measures established under paragraph (2); and

(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

(c) Possession and use of listed agents and toxins

The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of listed agents and toxins, including the provisions described in paragraphs (1) through (4) of subsection (b), in order to protect animal and plant health, and animal and plant products.

(d) Registration; identification; database

(1) Registration

Regulations under subsections (b) and (c) shall require registration with the Secretary of the possession, use, and transfer of listed agents and toxins, and shall include provisions to ensure that persons seeking to register under such regulations have a lawful purpose to possess, use, or transfer such agents and toxins, including provisions in accordance with subsection (e)(6).

(2) Identification; database

Regulations under subsections (b) and (c) shall require that registration include (if available to the person registering) information regarding the characterization of listed agents and toxins to facilitate their identification, including their source. The Secretary shall maintain a national database that includes the names and locations of registered persons, the listed agents and toxins such persons are possessing, using, or transferring, and information regarding the characterization of such agents and toxins.

(e) Safeguard and security requirements for registered persons

(1) In general

Regulations under subsections (b) and (c) shall include appropriate safeguard and security requirements for persons possessing, using, or transferring a listed agent or toxin commensurate with the risk such agent or toxin poses to animal and plant health, and animal and plant products (including the risk of use in domestic or international terrorism). The Secretary shall establish such requirements in collaboration with the Secretary of Homeland Security and the Attorney General, and shall ensure compliance with such requirements as part of the registration system under such regulations.

(2) Limiting access to listed agents and toxins

Requirements under paragraph (1) shall include provisions to ensure that registered persons—

(A) provide access to listed agents and toxins to only those individuals whom the registered person involved determines have a legitimate need to handle or use such agents and toxins;

(B) submit the names and other identifying information for such individuals to the