

erences, 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.

#### PRECLEARANCE QUARANTINE INSPECTIONS

Pub. L. 107-171, title X, §10811, May 13, 2002, 116 Stat. 531, provided that:

“(a) **PRECLEARANCE INSPECTIONS REQUIRED.**—The Secretary of Agriculture, acting through the Administrator of the Animal and Plant Health Inspection Service, shall conduct preclearance quarantine inspections of persons, baggage, cargo, and any other articles destined for movement from the State of Hawaii to any of the following—

- “(1) The continental United States.
- “(2) Guam.
- “(3) Puerto Rico.
- “(4) The United States Virgin Islands.

“(b) **INSPECTION LOCATIONS.**—The preclearance quarantine inspections required by subsection (a) shall be conducted at all direct departure and interline airports in the State of Hawaii.

“(c) **LIMITATION.**—The Secretary shall not implement this section unless appropriations for necessary expenses of the Animal and Plant Health Inspection Service for inspection, quarantine, and regulatory activities are increased by an amount not less than \$3,000,000 in an Act making appropriations for fiscal year 2003.”

### § 8308. Detection, control, and eradication of diseases and pests

#### (a) In general

The Secretary may carry out operations and measures to detect, control, or eradicate any pest or disease of livestock (including the drawing of blood and diagnostic testing of animals), including animals at a slaughterhouse, stockyard, or other point of concentration.

#### (b) Compensation

##### (1) In general

The Secretary may pay a claim arising out of the destruction of any animal, article, or means of conveyance consistent with the purposes of this chapter.

##### (2) Specific cooperative programs

The Secretary shall compensate industry participants and State agencies that cooperate with the Secretary in carrying out operations and measures under subsection (a) for 100 percent of eligible costs relating to cooperative programs involving Federal, State, and industry participants to control diseases of low pathogenicity in accordance with regulations issued by the Secretary.

##### (3) Reviewability

The action of the Secretary in carrying out paragraph (1) shall not be subject to review by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

(Pub. L. 107-171, title X, §10409, May 13, 2002, 116 Stat. 501; Pub. L. 110-234, title XI, §11011(2), May 22, 2008, 122 Stat. 1360; Pub. L. 110-246, §4(a), title XI, §11011(2), June 18, 2008, 122 Stat. 1664, 2122.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original “this subtitle”, meaning subtitle E (§§10401-10418) of title X of Pub. L. 107-171, May 13, 2002, 116 Stat. 494, which is classified principally to this

chapter. For complete classification of subtitle E to the Code, see Short Title note set out under section 8301 of this title and Tables.

#### 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. (b)(2), (3). Pub. L. 110-246, §11011(2), added par. (2), redesignated former par. (2) as (3), and, in par. (3), struck out “of longer than 60 days” after “review”.

#### 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.

#### NATIONAL POULTRY IMPROVEMENT PLAN

Pub. L. 113-79, title XII, §12107, Feb. 7, 2014, 128 Stat. 982, provided that: “The Secretary of Agriculture shall ensure that the Department of Agriculture continues to administer the diagnostic surveillance program for H5/H7 low pathogenic avian influenza with respect to commercial poultry under section 146.14 of title 9, Code of Federal Regulations (or a successor regulation), without amending the regulations in section 147.43 of title 9, Code of Federal Regulations (as in effect on the date of the enactment of this Act [Feb. 7, 2014]), with respect to the governance of the General Conference Committee established under such section. The Secretary of Agriculture shall maintain—

“(1) the operations of the General Conference Committee—

“(A) in the physical location at which the Committee was located on the date of the enactment of this Act; and

“(B) with the organizational structure within the Department of Agriculture in effect as of such date; and

“(2) the funding levels for the National Poultry Improvement Plan for Commercial Poultry (established under part 146 of title 9, Code of Federal Regulations, or a successor regulation) at the fiscal year 2013 funding levels for the Plan.”

### § 8308a. Animal disease prevention and management

#### (a) National Animal Health Laboratory Network

##### (1) Definition of eligible laboratory

In this subsection, the term “eligible laboratory” means a diagnostic laboratory that meets specific criteria developed by the Secretary, in consultation with State animal health officials, State veterinary diagnostic laboratories, and veterinary diagnostic laboratories at institutions of higher education (as defined in section 1001 of title 20).

##### (2) In general

The Secretary, in consultation with State veterinarians, shall offer to enter into con-

tracts, grants, cooperative agreements, or other legal instruments with eligible laboratories for any of the following purposes:

(A) To enhance the capability of the Secretary to respond in a timely manner to emerging or existing bioterrorist threats to animal health.

(B) To provide the capacity and capability for standardized—

- (i) test procedures, reference materials, and equipment;
- (ii) laboratory biosafety and biosecurity levels;
- (iii) quality management system requirements;
- (iv) interconnected electronic reporting and transmission of data; and
- (v) evaluation for emergency preparedness.

(C) To coordinate the development, implementation, and enhancement of national veterinary diagnostic laboratory capabilities, with special emphasis on surveillance planning and vulnerability analysis, technology development and validation, training, and outreach.

### (3) Priority

To the extent practicable and to the extent capacity and specialized expertise may be necessary, the Secretary shall give priority to existing Federal facilities, State facilities, and facilities at institutions of higher education.

## (b) National Animal Disease Preparedness and Response Program

### (1) Program required

The Secretary shall establish a program, to be known as the National Animal Disease Preparedness and Response Program (referred to in this section as “the Program”), to address the increasing risk of the introduction and spread within the United States of animal pests and diseases affecting the economic interests of the livestock and related industries of the United States, including the maintenance and expansion of export markets.

### (2) Program activities

Activities under the Program shall include, to the extent practicable, the following:

- (A) Enhancing animal pest and disease analysis and surveillance.
- (B) Expanding outreach and education.
- (C) Targeting domestic inspection activities at vulnerable points in the safeguarding continuum.
- (D) Enhancing and strengthening threat identification technology.
- (E) Improving biosecurity.
- (F) Enhancing emergency preparedness and response capabilities, including training additional emergency response personnel.
- (G) Conducting technology development to enhance electronic sharing of animal health data for risk analysis between State and Federal animal health officials.
- (H) Enhancing the development and effectiveness of animal health technologies to treat and prevent animal disease, including—

- (i) veterinary biologics and diagnostics;
- (ii) animal drugs for minor uses and minor species;
- (iii) animal medical devices; and
- (iv) emerging veterinary countermeasures.

(I) Such other activities as determined appropriate by the Secretary, in consultation with eligible entities specified in paragraph (3).

### (3) Eligible entities

To carry out the Program, the Secretary shall offer to enter into cooperative agreements or other legal instruments, as authorized under section 8312 of this title (referred to in this section as “agreements”) with eligible entities, to be selected by the Secretary, which may include any of the following entities, either individually or in combination:

- (A) A State department of agriculture.
- (B) The office of the chief animal health official of a State.

(C) An entity eligible to receive funds under a capacity and infrastructure program (as defined in section 6971(f)(1)(C) of this title).

(D) A college of veterinary medicine, including a veterinary emergency team at such college.

(E) A State or national livestock producer organization with direct and significant economic interest in livestock production.

(F) A State emergency agency.

(G) A State, national, allied, or regional veterinary organization or specialty board recognized by the American Veterinary Medical Association.

(H) An Indian Tribe.

(I) A Federal agency.

### (4) Special funding considerations

In entering into agreements under this subsection, the Secretary shall give priority to applications submitted by—

(A) a State department of agriculture or an office of the chief animal health official of a State; or

(B) an eligible entity that will carry out program activities in a State or region in which—

(i) an animal pest or disease is a Federal concern; or

(ii) the Secretary determines a potential exists for the spread of an animal pest or disease after taking into consideration—

(I) the agricultural industries in the State or region;

(II) factors contributing to animal pest or disease in the State or region, such as the climate, natural resources, and geography of, and native and exotic wildlife species and other disease vectors in, the State or region; and

(III) the movement of animals in the State or region.

### (5) Consultation

For purposes of setting priorities under this subsection, the Secretary shall consult with eligible entities specified in paragraph (3). The Federal Advisory Committee Act (5 U.S.C.

App.) shall not apply to consultation carried out under this paragraph.

**(6) Application**

**(A) In general**

An eligible entity specified in paragraph (3) seeking to enter into an agreement under the Program shall submit to the Secretary an application containing such information as the Secretary may require.

**(B) Notification**

The Secretary shall notify each applicant of—

(i) the requirements to be imposed on the eligible entity that is the recipient of funds under the Program for auditing of, and reporting on, the use of such funds; and

(ii) the criteria to be used to ensure activities supported using such funds are based on sound scientific data or thorough risk assessments.

**(C) Non-Federal contributions**

When deciding whether to enter into an agreement under the Program with an eligible entity described in paragraph (3), the Secretary—

(i) may take into consideration an eligible entity's ability to contribute non-Federal funds to carry out such an agreement; and

(ii) shall not require such an eligible entity to make such a contribution as a condition to enter into an agreement.

**(7) Use of funds**

**(A) Use consistent with terms of cooperative agreement**

The recipient of funds under the Program shall use the funds for the purposes and in the manner provided in the agreement under which the funds are provided.

**(B) Sub-agreement**

Nothing in this section prevents an eligible entity from using funds received under the Program to enter into sub-agreements with another eligible entity or with a political subdivision of a State that has legal responsibilities relating to animal disease prevention, surveillance, or rapid response.

**(8) Reporting requirement**

Not later than 90 days after the date of completion of an activity conducted using funds provided under the Program, the recipient of such funds shall submit to the Secretary a report that describes the purposes and results of the activities.

**(c) National Animal Vaccine Bank**

**(1) Establishment**

The Secretary shall establish a national animal vaccine and veterinary countermeasures bank (to be known as the National Animal Vaccine and Veterinary Countermeasures Bank and referred to in this subsection as the "Vaccine Bank") to benefit the domestic interests of the United States.

**(2) Elements of Vaccine Bank**

Through the Vaccine Bank, the Secretary shall—

(A) maintain sufficient quantities of veterinary countermeasures to appropriately and rapidly respond to the most damaging animal diseases affecting or with potential to affect human health or the economy of the United States; and

(B) leverage, when appropriate, the mechanisms and infrastructure that have been developed for the management, storage, and distribution of the National Veterinary Stockpile.

**(3) Priority for response to foot and mouth disease**

The Secretary shall prioritize the acquisition and maintenance of sufficient quantities of foot and mouth disease vaccine and accompanying diagnostic products for the Vaccine Bank. As part of such prioritization, the Secretary may offer to enter into one or more contracts with one or more entities that are capable of producing foot and mouth disease vaccine and that have surge production capacity of the vaccine.

**(d) Funding**

**(1) Mandatory funding**

**(A) Fiscal years 2019 through 2022**

Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$120,000,000 for the period of fiscal years 2019 through 2022, of which not less than \$5,000,000 shall be made available for each of those fiscal years to carry out subsection (b).

**(B) Subsequent fiscal years**

Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$30,000,000 for fiscal year 2023 and each fiscal year thereafter, of which not less than \$18,000,000 shall be made available for each of those fiscal years to carry out subsection (b).

**(2) Authorization of appropriations**

**(A) National animal health laboratory network**

In addition to the funds made available under paragraph (1), there is authorized to be appropriated \$30,000,000 for each of fiscal years 2019 through 2023 to carry out subsection (a).

**(B) National Animal Disease Preparedness and Response Program; National Animal Vaccine and Veterinary Countermeasures Bank**

In addition to the funds made available under paragraph (1), there is authorized to be appropriated such sums as are necessary for each of fiscal years 2019 through 2023 to carry out subsections (b) and (c).

**(C) Additionality**

The funds authorized for appropriation under this paragraph are in addition to any funds authorized or otherwise made available under this section or section 8316 of this title.

**(3) Administrative costs**

**(A) Secretary**

Of the funds made available under this section or section 8316 of this title to carry out

the National Animal Health Laboratory Network under subsection (a) and the National Animal Disease Preparedness and Response Program under subsection (b), not more than 4 percent may be retained by the Secretary to pay administrative costs incurred by the Secretary.

**(B) Eligible entities**

Of the funds made available under this section or section 8316 of this title to carry out the National Animal Disease Preparedness and Response Program under subsection (b), not more than 10 percent may be retained by an eligible entity that receives funds under any agreement entered into under such subsection, including any sub-agreement under paragraph (7)(B) of such subsection to pay administrative costs incurred by the eligible entity to carry out activities under the Program.

**(4) Duration of availability**

Funds made available under this subsection, including any proceeds credited under paragraph (5), shall remain available until expended.

**(5) Proceeds from veterinary countermeasures sales**

Any proceeds of a sale of veterinary countermeasures from the Vaccine Bank shall be—

(A) deposited into the Treasury of the United States; and

(B) credited to the account for the operation of the Vaccine Bank to be made available for expenditure without further appropriation.

**(6) Limitations on use of funds for certain purposes**

Funds made available under the National Animal Health Laboratory Network, the National Animal Disease Preparedness and Response Program, and the Vaccine Bank shall not be used for the construction of a new building or facility or the acquisition or expansion of an existing building or facility, including site grading and improvement and architect fees.

**(e) Availability and purpose of funding**

**(1) In general**

Using the funds made available under subsection (d), the Secretary of Agriculture shall offer to enter into contracts, grants, cooperative agreements, or other legal instruments under subsections (a) through (c) during each of the fiscal years 2019 through 2023.

**(2) Effect**

Nothing in paragraph (1) shall be construed to terminate a contract, grant, cooperative agreement, or other legal instrument entered into during the period specified in such paragraph.

(Pub. L. 107-171, title X, §10409A, as added Pub. L. 113-79, title XII, §12105, Feb. 7, 2014, 128 Stat. 980; amended Pub. L. 115-334, title XII, §12101(b)-(d), Dec. 20, 2018, 132 Stat. 4937-4940.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(5), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770,

which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2018—Pub. L. 115-334, §12101(b)(1), substituted “Animal disease prevention and management” for “National animal health laboratory network” in section catchline.

Subsec. (a). Pub. L. 115-334, §12101(b)(2), (4), substituted “National Animal Health Laboratory Network” for “Definition of eligible laboratory” in heading, inserted par. (1) designation and heading and substituted “In this subsection,” for “In this section,” redesignated subsecs. (b) and (c) as pars. (2) and (3), respectively, and realigned margins.

Subsec. (a)(2). Pub. L. 115-334, §12101(b)(3)(B), redesignated pars. (1) to (3) of former subsec. (b) as subpars. (A) to (C), respectively, and realigned margins.

Subsec. (a)(2)(B). Pub. L. 115-334, §12101(b)(3)(A), redesignated subpars. (A) to (E) of former subsec. (b)(2) as cls. (i) to (v), respectively, and realigned margins.

Subsec. (b). Pub. L. 115-334, §12101(b)(5), added subsec. (b). Former subsec. (b) redesignated (a)(2).

Subsec. (c). Pub. L. 115-334, §12101(c), added subsec. (c). Former subsec. (c) redesignated (a)(3).

Subsecs. (d), (e). Pub. L. 115-334, §12101(d), added subsecs. (d) and (e) and struck out former subsec. (d) which authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2014 through 2018.

**§ 8309. Veterinary accreditation program**

**(a) In general**

The Secretary may establish a veterinary accreditation program that is consistent with this chapter, including the establishment of standards of conduct for accredited veterinarians.

**(b) Consultation**

The Secretary shall consult with State animal health officials and veterinary professionals regarding the establishment of the veterinary accreditation program.

**(c) Suspension or revocation of accreditation**

**(1) In general**

The Secretary may, after notice and opportunity for a hearing on the record, suspend or revoke the accreditation of any veterinarian accredited under this title<sup>1</sup> who violates this chapter.

**(2) Final order**

The order of the Secretary suspending or revoking accreditation shall be treated as a final order reviewable under chapter 158 of title 28.

**(3) Summary suspension**

**(A) In general**

The Secretary may summarily suspend the accreditation of a veterinarian whom the Secretary has reason to believe knowingly violated this chapter.

**(B) Hearings**

The Secretary shall provide the veterinarian with a subsequent notice and an opportunity for a prompt post-suspension hearing on the record.

**(d) Application of penalty provisions**

The criminal and civil penalties described in section 8313 of this title shall not apply to a violation of this section that is not a violation of any other provision of this chapter.

<sup>1</sup> See References in Text note below.