

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.

#### § 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.)

#### Statutory Notes and Related Subsidiaries

##### 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.)

#### Editorial Notes

##### 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.)

**Editorial Notes**

## 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 activities undertaken to find newly introduced plant pests, whether the plant pests are new to the United States or new to certain areas of the United States, before—

(A) the plant pests become established; or

(B) the plant pest infestations become too large and costly to eradicate or control.

**(2) Specialty crop**

The term “specialty crop” has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

**(3) State department of agriculture**

The term “State department of agriculture” means an agency of a State that has a legal responsibility to perform early plant pest detection and surveillance activities.

**(b) Early plant pest detection and surveillance improvement program****(1) Cooperative agreements**

The Secretary shall enter into a cooperative agreement with each State department of agriculture that agrees to conduct early plant pest detection and surveillance activities.

**(2) Consultation**

In carrying out this subsection, the Secretary shall consult with—

(A) the National Plant Board; and

(B) other interested parties.

**(3) Federal Advisory Committee Act**

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations under this subsection.

**(4) Application****(A) In general**

A State department of agriculture seeking to enter into a cooperative agreement under this subsection shall submit to the Secretary an application containing such information as the Secretary may require.

**(B) Notification**

The Secretary shall notify applicants of—

(i) the requirements to be imposed on a State department of agriculture for auditing of, and reporting on, the use of any funds provided by the Secretary under the cooperative agreement;

(ii) the criteria to be used to ensure that early pest detection and surveillance activities supported under the cooperative agreement are based on sound scientific data or thorough risk assessments; and

(iii) the means of identifying pathways of pest introductions.

**(5) Use of funds****(A) Plant pest detection and surveillance activities**

A State department of agriculture that receives funds under this subsection shall use the funds to carry out early plant pest detection and surveillance activities approved by the Secretary to prevent the introduction or spread of a plant pest.

**(B) Subagreements**

Nothing in this subsection prevents a State department of agriculture from using funds received under paragraph (4) to enter into subagreements with political subdivisions of the State that have legal responsibilities relating to agricultural plant pest and disease surveillance.

**(C) Non-Federal share**

The non-Federal share of the cost of carrying out a cooperative agreement under this section may be provided in-kind, including through provision of such indirect costs of the cooperative agreement as the Secretary considers to be appropriate.

**(D) Ability to provide funds**

The Secretary shall not take the ability to provide non-Federal costs to carry out a cooperative agreement entered into under subparagraph (A) into consideration when deciding whether to enter into a cooperative agreement with a State department of agriculture.

**(6) Special funding considerations**

The Secretary shall provide funds to a State department of agriculture if the Secretary determines that—

(A) the State department of agriculture is in a State that has a high risk of being affected by 1 or more plant pests or diseases, taking into consideration—

(i) the number of international ports of entry in the State;

(ii) the volume of international passenger and cargo entry into the State;

(iii) the geographic location of the State and if the location or types of agricultural commodities produced in the State are conducive to agricultural pest and disease establishment due to the climate, crop diversity, or natural resources (including unique plant species) of the State; and

(iv) whether the Secretary has determined that an agricultural pest or disease in the State is a Federal concern; and

(B) the early plant pest detection and surveillance activities supported with the funds will likely—

(i) prevent the introduction and establishment of plant pests; and

(ii) provide a comprehensive approach to compliment Federal detection efforts.

**(7) Reporting requirement**

Not later than 90 days after the date of completion of an early plant pest detection and