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) Chapter 10 of title 5

Chapter 10 of title 5 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 surveillance activity conducted by a State department of agriculture using funds provided under this section, the State department of

agriculture shall submit to the Secretary a report that describes the purposes and results of the activities.

(c) Threat identification and mitigation program

(1) Establishment

The Secretary shall establish a threat identification and mitigation program to determine and address threats to the domestic production of crops.

(2) Requirements

In conducting the program established under paragraph (1), the Secretary shall—

(A) develop risk assessments of the potential threat to the agricultural industry of the United States from foreign sources;

(B) collaborate with the National Plant Board; and

(C) implement action plans for high consequence plant pest and diseases to assist in preventing the introduction and widespread dissemination of new plant pest and disease threats in the United States.

(3) Reports

Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the action plans described in paragraph (2), including an accounting of funds expended on the action plans.

(d) Specialty crop certification and risk management systems

The Secretary shall provide funds and technical assistance to specialty crop growers, organizations representing specialty crop growers, and State and local agencies working with specialty crop growers and organizations for the development and implementation of—

(1) audit-based certification systems, such as best management practices—

(A) to address plant pests; and

(B) to mitigate the risk of plant pests in the movement of plants and plant products; and

(2) nursery plant pest risk management systems, in collaboration with the nursery industry, research institutions, and other appropriate entities—

(A) to enable growers to identify and prioritize nursery plant pests and diseases of regulatory significance;

(B) to prevent the introduction, establishment, and spread of those plant pests and diseases; and

(C) to reduce the risk of and mitigate those plant pests and diseases.

(e) National Clean Plant Network

(1) In general

The Secretary shall establish a program to be known as the ''National Clean Plant Network'' (referred to in this subsection as the ''Program'').

(2) Requirements

Under the Program, the Secretary shall establish a network of clean plant centers for diagnostic and pathogen elimination services—

(A) to produce clean propagative plant material; and

(B) to maintain blocks of pathogen-tested plant material in sites located throughout the United States.

(3) Availability of clean plant source material

Clean plant source material may be made available to—

(A) a State for a certified plant program of the State; and

(B) private nurseries and producers.

(4) Consultation and collaboration

In carrying out the Program, the Secretary shall—

(A) consult with—

(i) State departments of agriculture; and

(ii) land-grant colleges and universities and NLGCA Institutions (as those terms are defined in section 3103 of this title); and

(B) to the extent practicable and with input from the appropriate State officials and industry representatives, use existing Federal or State facilities to serve as clean plant centers.

(5) Funding for fiscal year 2013

There is authorized to be appropriated to carry out the Program $5,000,000 for fiscal year 2013.

(f) Funding

Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

(1) $12,000,000 for fiscal year 2009;

(2) $45,000,000 for fiscal year 2010;

(3) $50,000,000 for fiscal year 2011;

(4) $50,000,000 for fiscal year 2012;

(5) $62,500,000 for each of fiscal years 2014 through 2017;

(6) $75,000,000 for each of fiscal years 2018 through 2025; and

(7) $90,000,000 for fiscal year 2026 and each fiscal year thereafter.

(g) Use of funds for clean plant network

Of the funds made available under subsection (f) to carry out this section for a fiscal year, not less than $5,000,000 shall be available to carry out the National Clean Plant Network under subsection (e).

(h) Limitation on indirect costs for the consolidation of plant pest and disease management and disaster prevention programs

Indirect costs charged against a cooperative agreement under this section shall not exceed the lesser of—

(1) 15 percent of the total Federal funds provided under the cooperative agreement, as determined by the Secretary; and

(2) the indirect cost rate applicable to the recipient as otherwise established by law.

(Pub. L. 106–224, title IV, §420, as added Pub. L. 110–234, title X, §10201(a), May 22, 2008, 122 Stat. 1339, and Pub. L. 110–246, §4(a), title X, §10201(a), June 18, 2008, 122 Stat. 1664, 2101; Pub. L. 113–79, title X, §10007(a), (b), (d), Feb. 7, 2014, 128 Stat. 947, 948; Pub. L. 117–286, §4(a)(40), Dec. 27, 2022,

136 Stat. 4309; Pub. L. 119–21, title I, § 10606(a), July 4, 2025, 139 Stat. 110.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (c)(3), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2025—Subsec. (f)(6), (7). Pub. L. 119–21 added par. (6), redesignated former par. (6) as (7), and, in par. (7), substituted ''$90,000,000 for fiscal year 2026'' for ''$75,000,000 for fiscal year 2018''.

2022—Subsec. (b)(3). Pub. L. 117–286 substituted ''Chapter 10 of title 5'' for ''Federal Advisory Committee Act'' in heading and ''Chapter 10 of title 5'' for ''The Federal Advisory Committee Act (5 U.S.C. App.)'' in text.

2014—Subsecs. (e), (f). Pub. L. 113–79, § 10007(a), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f)(4) to (6). Pub. L. 113–79, § 10007(b), substituted semicolon at end for ''and each fiscal year thereafter.'' in par. (4), and added pars. (5) and (6).

Subsecs. (g), (h). Pub. L. 113–79, § 10007(d), added subsecs. (g) and (h).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Enactment 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 a note under section 8701 of this title.

SUBCHAPTER II—INSPECTION AND ENFORCEMENT

§ 7731. Inspections, seizures, and warrants

(a) Role of Attorney General

The activities authorized by this section shall be carried out consistent with guidelines approved by the Attorney General.

(b) Warrantless inspections

The Secretary may stop and inspect, without a warrant, any person or means of conveyance moving—

(1) into the United States to determine whether the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article subject to this chapter;

(2) in interstate commerce, upon probable cause to believe that the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article subject to this chapter; and

(3) in intrastate commerce from or within any State, portion of a State, or premises quarantined as part of a extraordinary emergency declared under section 7715 of this title upon probable cause to believe that the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article regulated under that section or is moving subject to that section.

(c) Inspections with a warrant

(1) General authority

The Secretary may enter, with a warrant, any premises in the United States for the purpose of conducting investigations or making inspections and seizures under this chapter.

(2) Application and issuance of a warrant

Upon proper oath or affirmation showing probable cause to believe that there is on certain premises any plant, plant product, biological control organism, plant pest, noxious weed, article, facility, or means of conveyance regulated under this chapter, a United States judge, a judge of a court of record in the United States, or a United States magistrate judge may, within the judge's or magistrate's[1] jurisdiction, issue a warrant for the entry upon the premises to conduct any investigation or make any inspection or seizure under this chapter. The warrant may be applied for and executed by the Secretary or any United States Marshal.

(Pub. L. 106–224, title IV, § 421, June 20, 2000, 114 Stat. 448.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1), (2) and (c), 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.

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.

§ 7732. Collection of information

The Secretary may gather and compile information and conduct any investigations the Secretary considers necessary for the administration and enforcement of this chapter.

(Pub. L. 106–224, title IV, § 422, June 20, 2000, 114 Stat. 449.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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.

[1] So in original. Probably should be ''magistrate judges's''.