other conditions specified in this chapter and those prescribed in regulations issued by the Secretary to carry out this chapter. When a plan is approved by the Secretary, such plan shall be known as an ''approved State plan'' or an ''approved regional plan'', as appropriate.

(f) Authorization of appropriations

To carry out the purposes of this section, there are authorized to be appropriated not to exceed $3,300,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, and September 30, 1983.

(Pub. L. 96–358, § 4, Sept. 25, 1980, 94 Stat. 1185.)

REFERENCES IN TEXT

Act of July 2, 1862 (7 U.S.C. 301–305, 307, and 308), referred to in subsec. (a)(1), is act July 2, 1862, ch. 130, 12 Stat. 503, popularly known as the ''Morrill Act'' and also as the ''First Morrill Act'', which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under 301 of this title and Tables.

Act of August 30, 1890 (7 U.S.C. 321–326 and 328), referred to in subsec. (a)(1), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 321 of this title and Tables.

CODIFICATION

In subsec. (d)(4), ''section 22102 of title 49'' substituted for ''section 5(j) of the Department of Transportation Act (49 U.S.C. 1654(j))'' on authority of Pub. L. 103–272, § 6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation. Previously, section 5 of the Department of Transportation Act was amended generally by Pub. L. 101–213, § 2(c), Dec. 11, 1989, 103 Stat. 1843, and, as so amended, provisions of subsec. (j), relating to an adequate State plan, were set out in subsec. (a).

CHAPTER 69—SWINE HEALTH PROTECTION

Sec.
3801. Congressional findings and declaration of purpose.
3802. Definitions.
3803. Prohibition of certain garbage feeding; exemption.
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3805. Civil penalties.
3806. Criminal penalties.
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3809. Primary enforcement responsibility.
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3812. Authority in addition to other laws; effect on State laws.
3813. Authorization of appropriations.

§ 3801. Congressional findings and declaration of purpose

The Congress hereby finds and declares that—

(1) raw garbage is one of the primary media through which numerous infectious or communicable diseases of swine are transmitted;

(2) if certain exotic animal diseases, such as foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular diseases, gain entrance into the United States, such diseases may be spread through the medium of raw or improperly treated garbage which is fed to swine;

(3) African swine fever, which is potentially the most dangerous and destructive of all communicable swine diseases, has been confirmed in several countries of the Western Hemisphere, including the Dominican Republic, Haiti, and Cuba;

(4) swine in the United States have no resistance to any of such exotic diseases and in the case of African swine fever there is a particular danger because there are no effective vaccines to this deadly disease;

(5) all articles and animals which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce, and regulation by the Secretary and cooperation by the States and other jurisdictions as contemplated by this chapter are necessary to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of the people of the United States;

(6) the interstate and foreign commerce in swine and swine products and producers and consumers of pork products could be severely injured economically if any exotic animal diseases, particularly African swine fever, enter this country;

(7) it is impossible to assure that all garbage fed to swine is properly treated to kill disease organisms unless such treatment is closely regulated;

(8) therefore, in order to protect the commerce of the United States and the health and welfare of the people of this country, it is necessary to regulate the treatment of garbage to be fed to swine and the feeding thereof in accordance with the provisions of this chapter.

(Pub. L. 96–468, § 2, Oct. 17, 1980, 94 Stat. 2229.)

SHORT TITLE

Section 1 of Pub. L. 96–468 provided: ''That this Act [enacting this chapter] may be cited as the 'Swine Health Protection Act'.''

§ 3802. Definitions

For purposes of this chapter—

(1) the term ''Secretary'' means the Secretary of Agriculture;

(2) the term ''garbage'' means all waste material derived in whole or in part from the meat of any animal (including fish and poultry) or other animal material, and other refuse of any character whatsoever that has been associated with any such material, resulting from the handling, preparation, cooking, or consumption of food, except that such term shall not include waste from ordinary household operations which is fed directly to swine on the same premises where such household is located;

(3) the term ''person'' means any individual, corporation, company, association, firm, partnership, society, or joint stock company or other legal entity; and

(4) the term ''State'' means the fifty States, the District of Columbia, Guam, Puerto Rico,

the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(Pub. L. 96–468, § 3, Oct. 17, 1980, 94 Stat. 2229; Pub. L. 96–592, title V, § 511, Dec. 24, 1980, 94 Stat. 3451.)

AMENDMENTS

1980—Par. (4). Pub. L. 96–592 added par. (4).

§ 3803. Prohibition of certain garbage feeding; exemption

(a) No person shall feed or permit the feeding of garbage to swine except in accordance with subsection (b) of this section.

(b) Garbage may be fed to swine only if treated to kill disease organisms, in accordance with regulations issued by the Secretary, at a facility holding a valid permit issued by the Secretary, or the chief agricultural or animal health official of the State where located if such State has entered into an agreement with the Secretary pursuant to section 3808 of this title or has primary enforcement responsibility pursuant to section 3809 of this title. No person shall operate a facility for the treatment of garbage knowing it is to be fed to swine unless such person holds a valid permit issued pursuant to this chapter. The Secretary may exempt any facility or premises from the requirements of this section whenever the Secretary determines that there would not be a risk to the swine industry in the United States.

(Pub. L. 96–468, § 4, Oct. 17, 1980, 94 Stat. 2230.)

§ 3804. Permits to operate garbage treatment facility

(a) Application; issuance

Any person desiring to obtain a permit to operate a facility to treat garbage that is to be fed to swine shall apply therefor to (1) the Secretary, or (2) the chief agricultural or animal health official of the State where the facility is located if such State has entered into an agreement with the Secretary pursuant to section 3808 of this title or has primary enforcement responsibility pursuant to section 3809 of this title, and provide such information as the Secretary shall by regulation prescribe. No permit shall be issued unless the facility—

(1) meets such requirements as the Secretary shall prescribe to prevent the introduction, or dissemination of any infectious or communicable disease of animals or poultry, and

(2) is so constructed that swine are unable to have access to untreated garbage of such facility or material coming in contact with such untreated garbage.

(b) Cease and desist orders; suspension or revocation orders; judicial review

Whenever the Secretary finds, after notice and opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5, that any person holding a permit to operate a facility to treat garbage in any State is violating or has violated this chapter or any regulation of the Secretary issued hereunder, the Secretary may issue an order requiring such person to cease and desist from continuing such violations or an order suspending or revoking such permit, or both. Any person aggrieved by an order of the Secretary issued pursuant to this subsection may, within sixty days after entry of such order, seek review of such order in the appropriate United States court of appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, and such court shall have jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order. Judicial review of any such order shall be upon the record upon which the determination and order are based.

(c) Automatic revocation

The permit of any person to operate a facility to treat garbage in any State shall be automatically revoked, without action of the Secretary, upon the final effective date of the second conviction of such person pursuant to section 3806 of this title.

(Pub. L. 96–468, § 5, Oct. 17, 1980, 94 Stat. 2230.)

§ 3805. Civil penalties

(a) Assessment by Secretary

Any person who the Secretary determines, after notice and opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5, is violating or has violated any provision of this chapter or any regulation of the Secretary issued hereunder, other than a violation for which a criminal penalty has been imposed under this chapter, may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. Each offense shall be a separate violation. The amount of such civil penalty shall be assessed by the Secretary by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and may be reviewed only as provided in subsection (b) of this section.

(b) Judicial review

The determination and order of the Secretary with respect thereto imposing a civil penalty under this section shall be final and conclusive unless the person against whom such an order is issued files application for judicial review within sixty days after entry of such order in the appropriate United States court of appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, and such court shall have jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order. Judicial review of any such order shall be upon the record upon which the determination and order are based.

(c) Collection action by Attorney General

If any person fails to pay a civil penalty under a final order of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall institute a civil action to recover the amount assessed in any appropriate district court of the United States. In such collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review.

(d) Payment into United States Treasury

All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(e) Compromise, modification, or remittance

The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this chapter.

(Pub. L. 96–468, § 6, Oct. 17, 1980, 94 Stat. 2231.)

§ 3806. Criminal penalties

(a) Whoever willfully violates any provision of this chapter or the regulations of the Secretary issued hereunder shall be guilty of a misdemeanor and shall be fined not more than $10,000, or imprisoned not more than one year, or both.

(b) Any person who fails to obey any order of the Secretary issued under the provisions of section 3804 of this title, or such order as modified—

(1) after the expiration of the time allowed for filing a petition in the court of appeals to review such order, if no such petition has been filed within such time; or

(2) after the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) after such order, or such order as modified, has been sustained by the courts as provided in section 3804(b) of this title;

shall on conviction be fined not more than $10,000, or imprisoned for not more than one year, or both. Each day during which such failure continues shall be deemed a separate offense.

(Pub. L. 96–468, § 7, Oct. 17, 1980, 94 Stat. 2231.)

§ 3807. General enforcement provisions

(a) Injunctions

The Attorney General, upon the request of the Secretary, shall bring an action to enjoin the violation of, or to compel compliance with, any provision of this chapter or any regulation issued by the Secretary hereunder by any person. Such action shall be brought in the appropriate United States district court for the judicial district in which such person resides or transacts business or in which the violation or omission has occurred or is about to occur. Process in such cases may be served in any judicial district wherein the defendant resides or transacts business or wherever the defendant may be found.

(b) Access to premises or facility and books and records; examination; samples

Any person subject to the provisions of this chapter shall, at all reasonable times, upon notice by a duly authorized representative of the Secretary, afford such representative access to his premises or facility and opportunity to examine the premises or facility, the garbage there at, and books and records thereof, to copy all such books and records and to take reasonable sample of such garbage.

(c) Additional powers

For the efficient execution of the provisions of this chapter, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 46 and 48 through 50 of title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this chapter and to any person subject to the provisions of this chapter, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this chapter in any part of the United States.

(Pub. L. 96–468, § 8, Oct. 17, 1980, 94 Stat. 2232.)

§ 3808. Cooperation with States

In order to avoid duplication of functions, facilities, and personnel, and to attain closer coordination and greater effectiveness and economy in administration of this chapter and State laws and regulations relating to the feeding of garbage to swine, the Secretary is authorized to enter into cooperative agreements with State departments of agriculture and other State agencies charged with the administration and enforcement of such State laws and regulations and to provide that any such State agency which has adequate facilities, personnel, and procedures, as determined by the Secretary, may assist the Secretary in the administration and enforcement of this chapter and regulations hereunder. The Secretary is further authorized to coordinate the administration of this chapter and regulations with such State laws and regulations whenever feasible: *Provided*, That nothing herein shall affect the jurisdiction of the Secretary under any other Federal law, or any authority to cooperate with State agencies or other agencies or persons under existing provisions of law, or affect any restrictions upon such cooperation.

(Pub. L. 96–468, § 9, Oct. 17, 1980, 94 Stat. 2232.)

§ 3809. Primary enforcement responsibility

(a) State obligation

For purposes of this chapter, a State shall have the primary enforcement responsibility for violations of laws and regulations relating to the treatment of garbage to be fed to swine and the feeding thereof during any period for which the Secretary determines that such State—

(1) has adopted adequate laws and regulations regulating the treatment of garbage to be fed to swine and the feeding thereof which laws and regulations meet the minimum standards of this chapter and the regulations hereunder: *Provided*, That the Secretary may not require a State to have laws that are more stringent than this chapter;

(2) has adopted and is implementing adequate procedures for the effective enforcement of such State laws and regulations; and

(3) will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Secretary may require by regulation.

Except as provided in subsection (c) of this section, the Secretary shall not enforce this chap-

ter or the regulations hereunder in any State which has primary enforcement responsibility pursuant to this section.

(b) Inadequate enforcement or administration by State; termination of responsibility by Secretary

Whenever the Secretary determines that a State having primary enforcement responsibility pursuant to this section does not have adequate laws or regulations or is not effectively enforcing such laws or regulations, the Secretary shall notify the State. Such notice shall specify those aspects of the administration or enforcement of the State program that are determined to be inadequate. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Secretary determines that the State program remains inadequate, the Secretary may terminate, in whole or in part, the State's primary enforcement responsibility under this chapter.

(c) Request of State official

(1) In general

On request of the Governor or other appropriate official of a State, the Secretary may terminate, effective as soon as the Secretary determines is practicable, the primary enforcement responsibility of a State under subsection (a) of this section. In terminating the primary enforcement responsibility under this subsection, the Secretary shall work with the appropriate State official to determine the level of support to be provided to the Secretary by the State under this chapter.

(2) Reassumption

Nothing in this subsection shall prevent a State from reassuming primary enforcement responsibility if the Secretary determines that the State meets the requirements of subsection (a) of this section.

(d) Emergency conditions

Nothing in this section shall limit the authority of the Secretary to enforce this chapter whenever the Secretary determines that emergency conditions exist that require immediate action on the part of the Secretary and the State authority is unwilling or unable adequately to respond to the emergency.

(Pub. L. 96–468, § 10, Oct. 17, 1980, 94 Stat. 2233; Pub. L. 104–127, title IX, § 914(a), Apr. 4, 1996, 110 Stat. 1186.)

AMENDMENTS

1996—Subsecs. (c), (d). Pub. L. 104–127 added subsec. (c) and redesignated former subsec. (c) as (d).

§ 3810. Repealed. Pub. L. 104–127, title IX, § 914(b)(1), Apr. 4, 1996, 110 Stat. 1186

Section, Pub. L. 96–468, § 11, Oct. 17, 1980, 94 Stat. 2233, authorized Secretary to appoint and consult with advisory committees concerning matters within scope of this chapter.

§ 3811. Issuance of regulations; maintenance of records

The Secretary is authorized to issue such regulations and to require the maintenance of such records as he deems necessary to carry out the provisions of this chapter.

(Pub. L. 96–468, § 11, formerly § 12, Oct. 17, 1980, 94 Stat. 2233; renumbered § 11, Pub. L. 104–127, title IX, § 914(b)(2), Apr. 4, 1996, 110 Stat. 1186.)

PRIOR PROVISIONS

A prior section 11 of Pub. L. 96–468 was classified to section 3810 of this title prior to repeal by Pub. L. 104–127.

§ 3812. Authority in addition to other laws; effect on State laws

The authority conferred by this chapter shall be in addition to authority conferred by other statutes. Nothing in this chapter shall be construed to repeal or supersede any State law prohibiting the feeding of garbage to swine or to prohibit any State from enforcing requirements relating to the treatment of garbage to be fed to swine or the feeding thereof which are more stringent than those under this chapter or the regulations hereunder.

(Pub. L. 96–468, § 12, formerly § 13, Oct. 17, 1980, 94 Stat. 2233; renumbered § 12, Pub. L. 104–127, title IX, § 914(b)(2), Apr. 4, 1996, 110 Stat. 1186.)

PRIOR PROVISIONS

A prior section 12 of Pub. L. 96–468 was renumbered section 11 and is classified to section 3811 of this title.

§ 3813. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 96–468, § 13, formerly § 14, Oct. 17, 1980, 94 Stat. 2234; renumbered § 13, Pub. L. 104–127, title IX, § 914(b)(2), Apr. 4, 1996, 110 Stat. 1186.)

PRIOR PROVISIONS

A prior section 13 of Pub. L. 96–468 was renumbered section 12 and is classified to section 3812 of this title.

CHAPTER 70—ANIMAL CANCER RESEARCH

Sec.
3901. Congressional findings.
3902. Research program on cancer in animals and birds.
3903. Annual program review to achieve coordination with National Cancer Institute program.
3904. Authorization of appropriations; restriction.

§ 3901. Congressional findings

Congress finds that—

(a) basic research on malignant tumors or cancers is essential to protect the health of domestic animals, poultry, and wildlife, including birds;

(b) carcinogenic agents have not been adequately identified in domestic animals, poultry, and wildlife management;

(c) basic research in diagnosis, prevention, and control of malignant tumors in animals and birds has not been adequately coordinated;

(d) significant theories of a common factor in malignant tumors, such as chorionic gonadotropin, have not been pursued in depth;

(e) research on diagnosis, prevention, and control of cancer in animals and birds will be