

1 during the effective period of a declaration by the  
2 Secretary under paragraph (2)(A).

3 “(2) DECLARATION BY SECRETARY CON-  
4 CERNING COUNTERMEASURE AGAINST SMALLPOX.—

5 “(A) AUTHORITY TO ISSUE DECLARA-  
6 TION.—

7 “(i) IN GENERAL.—The Secretary  
8 may issue a declaration, pursuant to this  
9 paragraph, concluding that an actual or  
10 potential bioterrorist incident or other ac-  
11 tual or potential public health emergency  
12 makes advisable the administration of a  
13 covered countermeasure to a category or  
14 categories of individuals.

15 “(ii) COVERED COUNTERMEASURE.—  
16 The Secretary shall specify in such dec-  
17 laration the substance or substances that  
18 shall be considered covered counter-  
19 measures (as defined in paragraph (8)(A))  
20 for purposes of administration to individ-  
21 uals during the effective period of the dec-  
22 laration.

23 “(iii) EFFECTIVE PERIOD.—The Sec-  
24 retary shall specify in such declaration the  
25 beginning and ending dates of the effective



1 period of the declaration, and may subse-  
2 quently amend such declaration to shorten  
3 or extend such effective period, provided  
4 that the new closing date is after the date  
5 when the declaration is amended.

6 “(iv) PUBLICATION.—The Secretary  
7 shall promptly publish each such declara-  
8 tion and amendment in the Federal Reg-  
9 ister.

10 “(B) LIABILITY OF UNITED STATES ONLY  
11 FOR ADMINISTRATIONS WITHIN SCOPE OF DEC-  
12 LARATION.—Except as provided in paragraph  
13 (5)(B)(ii), the United States shall be liable  
14 under this subsection with respect to a claim  
15 arising out of the administration of a covered  
16 countermeasure to an individual only if—

17 “(i) the countermeasure was adminis-  
18 tered by a qualified person, for a purpose  
19 stated in paragraph (7)(A)(i), and during  
20 the effective period of a declaration by the  
21 Secretary under subparagraph (A) with re-  
22 spect to such countermeasure; and

23 “(ii)(I) the individual was within a  
24 category of individuals covered by the dec-  
25 laration; or

