

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 Title 7, Agriculture.

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.

§ 3375. Enforcement**(a) In general**

The provisions of this chapter and any regulations issued pursuant thereto shall be enforced by the Secretary, the Secretary of Transportation, or the Secretary of the Treasury. Such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency or Indian tribe for purposes of enforcing this chapter.

(b) Powers

Any person authorized under subsection (a) of this section to enforce this chapter may carry firearms; may, when enforcing this chapter, make an arrest without a warrant, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; may search and seize, with or without a warrant, in accordance with any guidelines which may be issued by the Attorney General;¹ *Provided*, That an arrest for a felony violation of this chapter that is not committed in the presence or view of any such person and that involves only the transportation, acquisition, receipt, purchase, or sale of fish or wildlife or plants taken or possessed in violation of any law or regulation of any State shall require a warrant; may make an arrest without a warrant for a misdemeanor violation of this chapter if he has reasonable grounds to believe that the person to be arrested is committing a violation in his presence or view; and may execute and serve any subpoena, arrest warrant, search warrant issued in accordance with rule 41 of the Federal Rules of Criminal Procedure, or other warrant of civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this chapter. Any person so authorized, in coordination with the Secretary of the Treasury, may detain for inspection and inspect any vessel, vehicle, aircraft, or other conveyance or any package, crate, or other container, including its contents, upon the arrival of such conveyance or container in the United States or the customs waters of the United States from any point outside the United States

or such customs waters, or, if such conveyance or container is being used for exportation purposes, prior to departure from the United States or the customs waters of the United States. Such person may also inspect and demand the production of any documents and permits required by the country of natal origin, birth, or reexport of the fish or wildlife. Any fish, wildlife, plant, property, or item seized shall be held by any person authorized by the Secretary pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, plants, property, or item pursuant to section 3374 of this title; except that the Secretary may, in lieu of holding such fish, wildlife, plant, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(c) Jurisdiction of district courts

The several district courts of the United States, including the courts enumerated in section 460 of title 28, shall have jurisdiction over any actions arising under this chapter. The venue provisions of title 18 and title 28 shall apply to any actions arising under this chapter. The judges of the district courts of the United States and the United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and any regulations issued thereunder.

(d) Rewards and certain incidental expenses

Beginning in fiscal year 1983, the Secretary or the Secretary of the Treasury shall pay, from sums received as penalties, fines, or forfeitures of property for any violation of this chapter or any regulation issued hereunder (1) a reward to any person who furnishes information which leads to an arrest, a criminal conviction, civil penalty assessment, or forfeiture of property for any violation of this chapter or any regulation issued hereunder, and (2) the reasonable and necessary costs incurred by any person in providing temporary care for any fish, wildlife, or plant pending the disposition of any civil or criminal proceeding alleging a violation of this chapter with respect to that fish, wildlife, or plant. The amount of the reward, if any, is to be designated by the Secretary or the Secretary of the Treasury, as appropriate. Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of his official duties is ineligible for payment under this subsection.

(Pub. L. 97-79, §6, Nov. 16, 1981, 95 Stat. 1077; Pub. L. 98-327, §4, June 25, 1984, 98 Stat. 271; Pub. L. 100-653, title I, §104, Nov. 14, 1988, 102 Stat. 3826; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 97-79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

Rule 41 of the Federal Rules of Criminal Procedure, referred to in subsec. (b), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

¹ So in original. The semicolon probably should be a colon.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-653 substituted “may, when enforcing this chapter, make an arrest without a warrant, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person’s presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; may search and seize, with or without a warrant, in accordance with any guidelines which may be issued by the Attorney General;” for “may make an arrest without a warrant for any felony violation of this chapter if he has reasonable grounds to believe that the person to be arrested has committed or is committing such violation.”.

1984—Subsec. (d). Pub. L. 98-327, in first sentence, substituted a comma for “a reward” after “shall pay”, inserted “(1) a reward” before “to any person”, and added cl. (2).

CHANGE OF NAME

“United States magistrate judges” substituted for “United States magistrates” in subsec. (c) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

TRANSFER OF FUNCTIONS

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§ 3376. Administration**(a) Regulations**

(1) The Secretary, after consultation with the Secretary of the Treasury, is authorized to issue such regulations, except as provided in paragraph (2), as may be necessary to carry out the provisions of sections 3372(f), 3373, and 3374 of this title.

(2) The Secretaries of the Interior and Commerce shall jointly promulgate specific regulations to implement the provisions of section 3372(b) of this title for the marking and labeling of containers or packages containing fish or wildlife. These regulations shall be in accordance with existing commercial practices.

(b) Contract authority

Beginning in fiscal year 1983, to the extent and in the amounts provided in advance in appropriations Acts, the Secretary may enter into such contracts, leases, cooperative agreements, or other transactions with any Federal or State agency, Indian tribe, public or private institution, or other person, as may be necessary to carry out the purposes of this chapter.

(c) Clarification of exclusions from definition of plant

The Secretary of Agriculture and the Secretary of the Interior, after consultation with the appropriate agencies, shall jointly promulgate regulations to define the terms used in section 3371(f)(2)(A) of this title for the purposes of enforcement under this chapter.

(Pub. L. 97-79, § 7, Nov. 16, 1981, 95 Stat. 1078; Pub. L. 110-234, title VIII, § 8204(e), May 22, 2008,

122 Stat. 1294; Pub. L. 110-246, § 4(a), title VIII, § 8204(e), June 18, 2008, 122 Stat. 1664, 2056.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original “this Act”, meaning Pub. L. 97-79, Nov. 16, 1981, 95 Stat. 1073, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3371 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. (a)(1). Pub. L. 110-246, § 8204(e)(1), substituted “sections 3372(f), 3373, and 3374” for “section 3372 and section 3374”.

Subsec. (c). Pub. L. 110-246, § 8204(e)(2), added subsec. (c).

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§ 3377. Exceptions**(a) Activities regulated by plan under Magnuson-Stevens Fishery Conservation and Management Act**

The provisions of paragraph (1) of section 3372(a) of this title shall not apply to any activity regulated by a fishery management plan in effect under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) Activities regulated by Tuna Convention Acts; harvesting of highly migratory species taken on high seas

The provisions of paragraphs (1), (2)(A), and (3)(A) of section 3372(a) of this title shall not apply to—

(1) any activity regulated by the Tuna Conventions Act of 1950 (16 U.S.C. 951-961) or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971-971(h)¹); or

(2) any activity involving the harvesting of highly migratory species (as defined in paragraph (14) of section 3² of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1802(14)]) taken on the high seas (as defined in paragraph (13) of such section 3) if such species are taken in violation of the laws of a foreign nation and the United States

¹ So in original. Probably was meant to be “971-971h”.

² See References in Text note below.