

(d) Enforcement; regulations; arrest; search; issuance and execution of warrants and process; cooperative agreements

The Secretary of the Interior shall enforce the provisions of this section and shall promulgate such regulations as he deems necessary and appropriate to carry out such enforcement. Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this section may, without warrant, arrest any person committing in his presence or view a violation of this section or of any regulation issued hereunder and take such person immediately for examination or trial before an officer or court of competent jurisdiction; may execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this section; and may, with or without a warrant, as authorized by law, search any place. The Secretary of the Interior is authorized to enter into cooperative agreements with State fish and wildlife agencies or other appropriate State authorities to facilitate enforcement of this section, and by such agreements to delegate such enforcement authority to State law enforcement personnel as he deems appropriate for effective enforcement of this section. Any judge of any court established under the laws of the United States, and any United States magistrate judge may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

(e) Forfeiture

All birds, fish, or other animals shot or captured contrary to the provisions of this section, or of any regulation issued hereunder, and all guns, aircraft, and other equipment used to aid in the shooting, attempting to shoot, capturing, or harassing of any bird, fish, or other animal in violation of this section or of any regulation issued hereunder shall be subject to forfeiture to the United States.

(f) Certain customs laws applied

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with the provisions of this section; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this section, be exercised or performed by the Secretary of the Interior or by such persons as he may designate.

(Aug. 8, 1956, ch. 1036, §13, as added Pub. L. 92-159, §1, Nov. 18, 1971, 85 Stat. 480; amended Pub. L. 92-502, Oct. 18, 1972, 86 Stat. 905; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1972—Subsecs. (d) to (f). Pub. L. 92-502 added subsecs. (d) to (f).

CHANGE OF NAME

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

EFFECTIVE DATE

Pub. L. 92-159, §3, Nov. 18, 1971, 85 Stat. 481, provided that: “The amendments made by the first section of this Act [enacting this section] shall take effect as of the thirtieth day after the date of enactment of such section [Nov. 18, 1971]; except that, in any case in which a State is not authorized to issue any permit referred to in the amendments made by such first section, such amendments shall take effect in any such State as of the thirtieth day after the expiration of the next regular session of the legislature of such State which begins on or after the date of enactment of this Act.”

§ 742j-2. Uniform allowance

Notwithstanding subsection¹ 5901(a) of title 5, the uniform allowance for each uniformed employee of the United States Fish and Wildlife Service may be up to \$400 annually.

(Aug. 8, 1956, ch. 1036, §14, as added Pub. L. 96-291, §2, June 28, 1980, 94 Stat. 608.)

§ 742k. Management and disposition of vessels and other property acquired and arising out of fishery loans or related type of activities

For the purpose of facilitating administration of, and protecting the interest of the Government in, the fishery loan fund established by section 742c of this title and any related type of activities relating to fisheries for which the Department of the Interior is now or may hereafter be responsible, the Secretary of the Interior, notwithstanding any other provisions of law, may hereafter administer, complete, reconstruction, reconstruct, renovate, repair, maintain, operate, charter, assign, or sell upon such terms and conditions as he may deem most advantageous to the United States, any vessel, plant, or other property acquired by him on behalf of the United States and arising out of any fishery loan or any related type of activity by the Secretary of the Interior. The Secretary may use any of the applicable funds in each particular instance for the aforesaid purposes.

(Pub. L. 87-219, Sept. 13, 1961, 75 Stat. 493.)

TRANSFER OF FUNCTIONS

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see Transfer of Functions note set out under section 742b of this title.

§ 742l. Enforcement authority for the protection of fish and wildlife resources

(a) Law enforcement training program

(1) In order to provide for and encourage training, research, and development for the purpose of improving fish and wildlife law enforcement and developing new methods for the prevention, detection, and reduction of violation of fish and wildlife laws, and the apprehension of violators of such laws, the Secretary of the Interior and the Secretary of Commerce may each—

¹ So in original. Probably should be “section”.

(A) establish and conduct national training programs to provide, at the request of any State, training for State fish and wildlife law enforcement personnel;

(B) develop new or improved approaches, techniques, systems, equipment, and service to improve and strengthen fish and wildlife law enforcement; and

(C) assist in conducting, at the request of any appropriate State official, local or regional training programs for the training of State fish and wildlife law enforcement personnel.

Such training programs shall be conducted to the maximum extent practicable through established programs.

(2) There are authorized to be appropriated beginning with fiscal year 1980 such funds as may be necessary to carry out the purposes of subsection (b) of this section, and the Secretary of the Interior and the Secretary of Commerce may each require reimbursement from the States for expenditures made pursuant to subsections (b)(1)(A) and (C) of this section.

(b) Law enforcement cooperative agreement

Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Commerce may each utilize by agreement, with or without reimbursement, the personnel, services and facilities of any other Federal or State agency to the extent he deems it necessary and appropriate for effective enforcement of any Federal or State laws on lands, waters, or interests therein under his jurisdiction which are administered or managed for fish and wildlife purposes and for enforcement of any laws administered by him relating to fish and wildlife. Persons so designated by either Secretary, who are not employees of another Federal agency—

(1) shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, competitive examination, rates of compensation, and Federal employee benefits, but may be considered eligible for compensation for work injuries under subchapter III of chapter 81 of title 5;

(2) shall be considered to be investigative or law enforcement officers of the United States for the purposes of the tort claim provisions of title 28;

(3) may, to the extent specified by either Secretary, search, seize, arrest, and exercise any other law enforcement functions or authorities under Federal laws relating to fish and wildlife, where such authorities are made applicable by this or any other law to employees, officers, or other persons designated or employed by either Secretary; and

(4) shall be considered to be officers or employees of the Department of the Interior or the Department of Commerce, as the case may be, within the meaning of sections 111 and 1114 of title 18.

(c) Disposal of abandoned or forfeited property

(1) In general

Subject to paragraph (2), notwithstanding any other provision of law, all fish, wildlife,

plants, or any other items abandoned or forfeited to the United States under any laws administered by the Secretary of the Interior or the Secretary of Commerce relating to fish, wildlife, or plants, shall be disposed of by either Secretary in such a manner as he deems appropriate (including, but not limited to, loan, gift, sale, or destruction).

(2) Prohibition on sale of certain items

In carrying out paragraph (1), the Secretary of the Interior and the Secretary of Commerce may not sell any species of fish, wildlife, or plant, or derivative thereof, for which the sale is prohibited by another Federal law.

(3) Use of revenues

The Secretary of the Interior and the Secretary of Commerce may each expend any revenues received from the disposal of items under paragraph (1), and all sums referred to in the first sentence of section 1540(d) of this title and the first sentence of section 3375(d) of this title—

(A) to make payments in accordance with those sections; and

(B) to pay costs associated with—

(i) shipping items referred to in paragraph (1) to and from the place of storage, sale, or temporary or final disposal, including temporary or permanent loan;

(ii) storage of the items, including inventory of, and security for, the items;

(iii) appraisal of the items;

(iv) sale or other disposal of the items in accordance with applicable law, including auctioneer commissions and related expenses;

(v) payment of any valid liens or other encumbrances on the items and payment for other measures required to clear title to the items; and

(vi) in the case of the Secretary of the Interior only, processing and shipping of eagles and other migratory birds, and parts of migratory birds, for Native American religious purposes.

(d) Disclaimer

Nothing in this section shall be construed to invalidate any law enforcement agreement or delegation made by the Secretary of the Interior or the Secretary of Commerce with respect to fish and wildlife matters prior to November 8, 1978.

(e) to (j) Omitted

(k) Law enforcement operations

With respect to any undercover or other enforcement operation which is necessary for the detection and prosecution of violations of any laws administered by the United States Fish and Wildlife Service or the National Marine Fisheries Service relating to fish, wildlife, or plants, the Secretary of the Interior or the Secretary of Commerce may, notwithstanding any other provision of law—

(1) direct the advance of funds which may be deposited in commercial banks or other financial institutions;

(2) use appropriations for payment for information, rewards, or evidence concerning viola-

tions, without reference to any rewards to which such persons may otherwise be entitled by law, and any moneys subsequently recovered shall be reimbursed to the current appropriation; and

(3) use appropriations to establish or acquire proprietary corporations or business entities as part of an undercover operation, operate such corporations or business entities on a commercial basis, lease space and make other necessary expenditures, and use the proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations: *Provided*, That at the conclusion of each such operation the proceeds shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Pub. L. 95-616, § 3 (less (e)-(j)), Nov. 8, 1978, 92 Stat. 3110; Pub. L. 97-396, § 7, Dec. 31, 1982, 96 Stat. 2006; Pub. L. 105-328, § 3, Oct. 30, 1998, 112 Stat. 3058.)

REFERENCES IN TEXT

This section, referred to in subsec. (d), means section 3 of Pub. L. 95-616, which in addition to enacting this section, enacted section 712 of this title and amended sections 460k-3, 668dd, 690e, 706, and 718f of this title and sections 1114 and 3112 of Title 18, Crimes and Criminal Procedure.

CODIFICATION

Section is comprised of subssecs. (a) to (d) and (k) of section 3 of Pub. L. 95-616, as amended. For classification of subssecs. (e) through (j) of section 3, see References in Text note above and Tables.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-328 designated existing provisions as par. (1) and inserted heading, substituted “Subject to paragraph (2), notwithstanding” for “Notwithstanding”, and added pars. (2) and (3).

1982—Subsec. (k). Pub. L. 97-396 added subsec. (k).

CONGRESSIONAL FINDINGS AND PURPOSES

Pub. L. 105-328, § 2, Oct. 30, 1998, 112 Stat. 3057, provided that:

“(a) FINDINGS.—Congress finds that—

“(1) the United States Fish and Wildlife Service (referred to in this Act [amending this section and enacting provisions set out as a note under section 742a of this title] as the ‘Service’)—

“(A) is responsible for storage and disposal of items derived from fish, wildlife, and plants, including eagles and eagle parts, and other items that have become the property of the United States through abandonment or forfeiture under applicable laws relating to fish, wildlife, or plants;

“(B) distributes many of those items for educational and scientific uses and for religious purposes of Native Americans; and

“(C) unless otherwise prohibited by law, may dispose of some of those items by sale, except items derived from endangered or threatened species, marine mammals, and migratory birds;

“(2) under law in effect on the date of enactment of this Act [Oct. 30, 1998], the revenue from sale of abandoned items is not available to the Service, although approximately 90 percent of the items in possession of the Service have been abandoned; and

“(3) making revenue from the sale of abandoned items available to the Service will enable the Service—

“(A) to cover costs incurred in shipping, storing, and disposing of items derived from fish, wildlife, and plants; and

“(B) to make more extensive distributions of those items for educational, scientific, and Native American religious purposes.

“(b) PURPOSES.—The purposes of this Act are to make proceeds from sales of abandoned items derived from fish, wildlife, and plants available to the Service and to authorize the use of those proceeds to cover costs incurred in shipping, storing, and disposing of those items.”

§ 742l-1. Authority to use available law enforcement funds

In fiscal year 2012 and hereafter of the amount available for law enforcement, up to \$400,000, to remain available until expended, may at the discretion of the Secretary be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on the Secretary's certificate.

(Pub. L. 112-74, div. E, title I, Dec. 23, 2011, 125 Stat. 988.)

§ 742m. Relinquishment of exclusive legislative jurisdiction

Notwithstanding any other provision of law, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, the exclusive legislative jurisdiction of the United States over all or part of any United States Fish and Wildlife Service lands or interests therein, including but not limited to National Wildlife Refuge System and National Fish Hatchery System lands, in that State, Commonwealth, territory, or possession. Relinquishment of exclusive legislative jurisdiction under this subsection may be accomplished (1) by filing with the Governor (or, if none, the chief executive officer) of the State, Commonwealth, territory, or possession concerned, a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide.

(Pub. L. 100-653, title IX, § 901, Nov. 14, 1988, 102 Stat. 3834.)

§ 743. Repealed. Pub. L. 93-280, § 1(2), May 10, 1974, 88 Stat. 123

Section, act Mar. 3, 1885, ch. 360, § 1(1), 23 Stat. 494, renumbered by Pub. L. 93-280, § 1(1), May 10, 1974, 88 Stat. 123, was part of a paragraph entitled: “Propagation of Food Fishes” in the Sundry Civil Expenses Appropriation Act, 1886. It authorized the Secretary of the Treasury to detail Coast Guard personnel to the Fish and Wildlife Services for duty. See section 743a of this title.

§ 743a. Detail of personnel and loan of equipment to Director of Bureau of Sport Fisheries and Wildlife

(a) “Agency” defined

As used in this section, the term “agency” means the department in which the Coast Guard is operating, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Atomic Energy Commission, and the National Aeronautics and Space Administration.