

(b) Representation and removal

(1) Upon certification by the Tennessee Valley Authority that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding heretofore or hereafter commenced upon such claim in a United States district court shall be deemed an action against the Tennessee Valley Authority pursuant to 16 U.S.C. 831c(b) and the Tennessee Valley Authority shall be substituted as the party defendant.

(2) Upon certification by the Tennessee Valley Authority that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Tennessee Valley Authority to the district court of the United States for the district and division embracing the place wherein it is pending. Such action shall be deemed an action brought against the Tennessee Valley Authority under the provisions of this title² and all references thereto, and the Tennessee Valley Authority shall be substituted as the party defendant. This certification of the Tennessee Valley Authority shall conclusively establish scope of office or employment for purposes of removal.

(3) In the event that the Tennessee Valley Authority has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment. Upon such certification by the court, such action shall be deemed an action brought against the Tennessee Valley Authority, and the Tennessee Valley Authority shall be substituted as the party defendant. A copy of the petition shall be served upon the Tennessee Valley Authority in accordance with the Federal Rules of Civil Procedure. In the event the petition is filed in a civil action or proceeding pending in a State court, the action or proceeding may be removed without bond by the Tennessee Valley Authority to the district court of the United States for the district and division embracing the place in which it is pending. If, in considering the petition, the district court determines that the employee was not acting within the scope of his office or employment, the action or proceeding shall be remanded to the State court.

(4) Upon certification, any actions subject to paragraph (1), (2), or (3) shall proceed in the same manner as any action against the Tennessee Valley Authority and shall be subject to the limitations and exceptions applicable to those actions.

(Pub. L. 100-694, §9(a), (b), Nov. 18, 1988, 102 Stat. 4566.)

REFERENCES IN TEXT

This title, referred to in subsec. (b)(2), probably should be this section, as Pub. L. 100-694, which enacted this section, did not contain titles.

The Federal Rules of Civil Procedure, referred to in subsec. (b)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

² See References in Text note below.

CODIFICATION

Section was enacted as part of the Federal Employees Liability Reform and Tort Compensation Act of 1988, and not as part of the Tennessee Valley Authority Act of 1933, which comprises this chapter.

EFFECTIVE DATE

Section effective Nov. 18, 1988, and applicable to all claims, civil actions, and proceedings pending on, or filed on or after Nov. 18, 1988, see section 8 of Pub. L. 100-694, set out as an Effective Date of 1988 Amendment note under section 2679 of Title 28, Judiciary and Judicial Procedure.

§ 831c-3. Law enforcement**(a) Designation of law enforcement agents**

The Board may designate employees of the corporation to act as law enforcement agents in the area of jurisdiction described in subsection (c).

(b) Duties and powers**(1) Duties**

A law enforcement agent designated under subsection (a) shall maintain law and order and protect persons and property in the area of jurisdiction described in subsection (c) and protect property and officials and employees of the corporation outside that area.

(2) Powers

In the performance of duties described in paragraph (1), a law enforcement agent designated under subsection (a) may—

(A) make arrests without warrant for any offense against the United States committed in the agent's presence, or for any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing such a felony;

(B) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of any Federal law or regulation issued pursuant to law in connection with the investigation of an offense described in subparagraph (A);

(C) conduct an investigation of an offense described in subparagraph (A) in the absence of investigation of the offense by any Federal law enforcement agency having investigative jurisdiction over the offense or with the concurrence of that agency; and

(D) carry firearms in carrying out any activity described in subparagraph (A), (B), or (C).

(c) Area of jurisdiction

A law enforcement agent designated under subsection (a) shall be authorized to exercise the law enforcement duties and powers described in subsection (b)—

(1) on any lands or facilities owned or leased by the corporation or within such adjoining areas in the vicinities of such lands or facilities as may be determined by the Board under subsection (e); and

(2) on other lands or facilities—

(A) when the person to be arrested is in the process of fleeing from such lands, facilities, or adjoining areas to avoid arrest;

(B) in conjunction with the protection of property or officials or employees of the cor-

poration on or within lands or facilities other than those owned or leased by the corporation; or

(C) in cooperation with other Federal, State, or local law enforcement agencies.

(d) Federal investigative jurisdiction and State civil and criminal jurisdiction not preempted

Nothing in this section shall be construed to—

(1) limit or restrict the investigative jurisdiction of any Federal law enforcement agency; or

(2) affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction on or within lands or facilities owned or leased by the corporation.

(e) Determination of adjoining areas

(1) In general

The Board shall determine and may from time-to-time modify the adjoining areas for each facility or particular area of land, or for individual categories of such facilities or lands, for the purposes of subsection (c)(1).

(2) Notice

A notice and description of each adjoining area determination or modification of a determination made under paragraph (1) shall be published in the Federal Register.

(f) Qualifications and training

The Board, in consultation with the Attorney General, shall adopt qualification and training standards for law enforcement agents designated under subsection (a).

(g) Relation to other law

A law enforcement agent designated under subsection (a) shall not be considered to be a law enforcement officer of the United States for the purposes of any other law, and no law enforcement agent designated under subsection (a) or other employee of the corporation shall receive an increase in compensation solely on account of this section.

(h) Relationship with Attorney General

The duties and powers of law enforcement agents designated under subsection (a) that are described in subsection (b) shall be exercised in accordance with guidelines approved by the Attorney General.

(May 18, 1933, ch. 32, §4A, as added Pub. L. 103-322, title XXXII, §320929, Sept. 13, 1994, 108 Stat. 2133; Pub. L. 108-447, div. C, title VI, §603(a)(2), Dec. 8, 2004, 118 Stat. 2966.)

AMENDMENTS

2004—Subsecs. (c)(1), (e)(1), (f). Pub. L. 108-447 substituted “Board” for “board”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-447 effective on the later of the date on which at least three persons nominated under section 604(a) of Pub. L. 108-447 take office or May 18, 2005, see section 604(b) of Pub. L. 108-447, set out in an Appointments; Effective Date; Transition note under section 831a of this title.

§ 831d. Directors; maintenance and operation of plant for production, sale, and distribution of fertilizer and power

The Board is authorized—

(a) To contract with commercial producers for the production of such fertilizers or fertilizer materials as may be needed in the Government’s program of development and introduction in excess of that produced by Government plants. Such contracts may provide either for outright purchase of materials by the Board or only for the payment of carrying charges on special materials manufactured at the board’s¹ request for its program.

(b) To arrange with farmers and farm organizations for large-scale practical use of the new forms of fertilizers under conditions permitting an accurate measure of the economic return they produce.

(c) To cooperate with National, State, district, or county experimental stations or demonstration farms, with farmers, landowners, and associations of farmers or landowners, for the use of new forms of fertilizer or fertilizer practices during the initial or experimental period of their introduction, and for promoting the prevention of soil erosion by the use of fertilizers and otherwise.

(d) The Board, in order to improve and cheapen the production of fertilizer, is authorized to manufacture and sell fixed nitrogen, fertilizer, and fertilizer ingredients at Muscle Shoals by the employment of existing facilities, by modernizing existing plants, or by any other process or processes that in its judgment shall appear wise and profitable for the fixation of atmospheric nitrogen or the cheapening of the production of fertilizer.

(e) Under the authority of this chapter the Board may make donations or sales of the product of the plant or plants operated by it to be fairly and equitably distributed through the agency of county demonstration agents, agricultural colleges, or otherwise as the Board may direct, for experimentation, education, and introduction of the use of such products in cooperation with practical farmers so as to obtain information as to the value, effect, and best methods of their use.

(f) The Board is authorized to make alterations, modifications, or improvements in existing plants and facilities, and to construct new plants.

(g) In the event it is not used for the fixation of nitrogen for agricultural purposes or leased, then the Board shall maintain in stand-by condition nitrate plant numbered 2, or its equivalent, for the fixation of atmospheric nitrogen, for the production of explosives in the event of war or a national emergency, until the Congress shall by joint resolution release the Board from this obligation, and if any part thereof be used by the Board for the manufacture of phosphoric acid or potash, the balance of nitrate plant numbered 2 shall be kept in stand-by condition.

(h) To establish, maintain, and operate laboratories and experimental plants, and to undertake experiments for the purpose of enabling the Corporation to furnish nitrogen products for military purposes, and nitrogen and other fertilizer products for agricultural purposes in the most economical manner and at the highest standard of efficiency.

¹ So in original. Probably should be “Board’s”.