

Subsec. (f)(4) to (6). Pub. L. 113–79, §10007(b), substituted semicolon at end for “and each fiscal year thereafter.” in par. (4), and added pars. (5) and (6).

Subsecs. (g), (h). Pub. L. 113–79, §10007(d), added subsecs. (g) and (h).

EFFECTIVE DATE

Enactment 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 a note under section 8701 of this title.

SUBCHAPTER II—INSPECTION AND ENFORCEMENT

§ 7731. Inspections, seizures, and warrants

(a) Role of Attorney General

The activities authorized by this section shall be carried out consistent with guidelines approved by the Attorney General.

(b) Warrantless inspections

The Secretary may stop and inspect, without a warrant, any person or means of conveyance moving—

(1) into the United States to determine whether the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article subject to this chapter;

(2) in interstate commerce, upon probable cause to believe that the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article subject to this chapter; and

(3) in intrastate commerce from or within any State, portion of a State, or premises quarantined as part of a extraordinary emergency declared under section 7715 of this title upon probable cause to believe that the person or means of conveyance is carrying any plant, plant product, biological control organism, plant pest, noxious weed, or article regulated under that section or is moving subject to that section.

(c) Inspections with a warrant

(1) General authority

The Secretary may enter, with a warrant, any premises in the United States for the purpose of conducting investigations or making inspections and seizures under this chapter.

(2) Application and issuance of a warrant

Upon proper oath or affirmation showing probable cause to believe that there is on certain premises any plant, plant product, biological control organism, plant pest, noxious weed, article, facility, or means of conveyance regulated under this chapter, a United States judge, a judge of a court of record in the United States, or a United States magistrate judge may, within the judge’s or magistrate’s¹ jurisdiction, issue a warrant for the entry upon the premises to conduct any investigation or make any inspection or seizure under this chapter. The warrant may be applied for

and executed by the Secretary or any United States Marshal.

(Pub. L. 106–224, title IV, § 421, June 20, 2000, 114 Stat. 448.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1), (2) and (c), was in the original “this title”, meaning title IV of Pub. L. 106–224, June 20, 2000, 114 Stat. 438, known as the Plant Protection Act, which is classified principally to this chapter. For complete classification of title IV to the Code, see Short Title note set out under section 7701 of this title and Tables.

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.

§ 7732. Collection of information

The Secretary may gather and compile information and conduct any investigations the Secretary considers necessary for the administration and enforcement of this chapter.

(Pub. L. 106–224, title IV, § 422, June 20, 2000, 114 Stat. 449.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title IV of Pub. L. 106–224, June 20, 2000, 114 Stat. 438, known as the Plant Protection Act, which is classified principally to this chapter. For complete classification of title IV to the Code, see Short Title note set out under section 7701 of this title and Tables.

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.

§ 7733. Subpoena authority

(a) Authority to issue

The Secretary shall have the power to subpoena the attendance and testimony of any witness, the production of all evidence (including books, papers, documents, electronically stored information, and other tangible things that constitute or contain evidence), or to require the person to whom the subpoena is directed to permit the inspection of premises relating to the administration or enforcement of this chapter or any matter under investigation in connection with this chapter.

(b) Location of production

The attendance of any witness and production of evidence relevant to the inquiry may be required from any place in the United States.

(c) Enforcement of Subpoena

In the case of disobedience to a subpoena by any person, the Secretary may request the At-

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

torney General to invoke the aid of any court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, in requiring the attendance and testimony of any witness, the production of evidence, or the inspection of premises. In case of a refusal to obey a subpoena issued to any person, a court may order the person to appear before the Secretary and give evidence concerning the matter in question, produce evidence, or permit the inspection of premises. Any failure to obey the court's order may be punished by the court as a contempt of the court.

(d) Compensation

Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid to witnesses in courts of the United States, and witnesses whose depositions are taken and the persons taking the depositions shall be entitled to the same fees that are paid for similar services in the courts of the United States.

(e) Procedures

The Secretary shall publish procedures for the issuance of subpoenas under this section. Such procedures shall include a requirement that subpoenas be reviewed for legal sufficiency and signed by the Secretary. If the authority to sign a subpoena is delegated to an agency other than the Office of Administrative Law Judges, the agency receiving the delegation shall seek review for legal sufficiency outside that agency.

(Pub. L. 106-224, title IV, § 423, June 20, 2000, 114 Stat. 449; Pub. L. 107-171, title X, § 10418(b)(2), May 13, 2002, 116 Stat. 508; Pub. L. 110-234, title X, § 10203(c), May 22, 2008, 122 Stat. 1343; Pub. L. 110-246, § 4(a), title X, § 10203(c), June 18, 2008, 122 Stat. 1664, 2104.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this title", meaning title IV of Pub. L. 106-224, June 20, 2000, 114 Stat. 438, known as the Plant Protection Act, which is classified principally to this chapter. For complete classification of title IV to the Code, see Short Title note set out under section 7701 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). Pub. L. 110-246, § 10203(c)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "The Secretary shall have power to subpoena the attendance and testimony of any witness, and the production of all documentary evidence relating to the administration or enforcement of this chapter or any matter under investigation in connection with this chapter."

Subsec. (b). Pub. L. 110-246, § 10203(c)(2), struck out "documentary" before "evidence".

Subsec. (c). Pub. L. 110-246, § 10203(c)(3), in first sentence substituted "testimony of any witness, the production of evidence, or the inspection of premises" for "testimony of any witness and the production of documentary evidence" and in second sentence substituted "question, produce evidence, or permit the inspection

of premises" for "question or to produce documentary evidence".

2002—Subsec. (b). Pub. L. 107-171, § 10418(b)(2)(A), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: "The attendance of any witness and production of documentary evidence may be required from any place in the United States at any designated place of hearing."

Subsec. (e). Pub. L. 107-171, § 10418(b)(2)(B), inserted "to an agency other than the Office of Administrative Law Judges" after "subpoena is delegated".

Subsec. (f). Pub. L. 107-171, § 10418(b)(2)(C), struck out heading and text of subsec. (f). Text read as follows: "Subpoenas for witnesses to attend court in any judicial district or to testify or produce evidence at an administrative hearing in any judicial district in any action or proceeding arising under this chapter may run to any other judicial district."

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 this title.

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.

§ 7734. Penalties for violation

(a) Criminal penalties

(1) Offenses

(A) In general

A person that knowingly violates this chapter, or knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this chapter shall be fined under title 18, imprisoned not more than 1 year, or both.

(B) Movement

A person that knowingly imports, enters, exports, or moves any plant, plant product, biological control organism, plant pest, noxious weed, or article, for distribution or sale, in violation of this chapter, shall be fined under title 18, imprisoned not more than 5 years, or both.

(2) Multiple violations

On the second and any subsequent conviction of a person of a violation of this chapter under paragraph (1), the person shall be fined under title 18, imprisoned not more than 10 years, or both.

(b) Civil penalties

(1) In general

Any person that violates this chapter, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this chapter may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—