

(4) Consultation and collaboration

In carrying out the Program, the Secretary shall—

(A) consult with—

(i) State departments of agriculture; and
(ii) land-grant colleges and universities and NLGCA Institutions (as those terms are defined in section 3103 of this title); and

(B) to the extent practicable and with input from the appropriate State officials and industry representatives, use existing Federal or State facilities to serve as clean plant centers.

(5) Funding for fiscal year 2013

There is authorized to be appropriated to carry out the Program \$5,000,000 for fiscal year 2013.

(f) Funding

Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

- (1) \$12,000,000 for fiscal year 2009;
- (2) \$45,000,000 for fiscal year 2010;
- (3) \$50,000,000 for fiscal year 2011;
- (4) \$50,000,000 for fiscal year 2012;
- (5) \$62,500,000 for each of fiscal years 2014 through 2017; and
- (6) \$75,000,000 for fiscal year 2018 and each fiscal year thereafter.

(g) Use of funds for clean plant network

Of the funds made available under subsection (f) to carry out this section for a fiscal year, not less than \$5,000,000 shall be available to carry out the National Clean Plant Network under subsection (e).

(h) Limitation on indirect costs for the consolidation of plant pest and disease management and disaster prevention programs

Indirect costs charged against a cooperative agreement under this section shall not exceed the lesser of—

- (1) 15 percent of the total Federal funds provided under the cooperative agreement, as determined by the Secretary; and
- (2) the indirect cost rate applicable to the recipient as otherwise established by law.

(Pub. L. 106-224, title IV, §420, as added Pub. L. 110-234, title X, §10201(a), May 22, 2008, 122 Stat. 1339, and Pub. L. 110-246, §4(a), title X, §10201(a), June 18, 2008, 122 Stat. 1664, 2101; Pub. L. 113-79, title X, §10007(a), (b), (d), Feb. 7, 2014, 128 Stat. 947, 948.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(3), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of enactment of this paragraph, referred to in subsec. (c)(3), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2014—Subsecs. (e), (f). Pub. L. 113-79, §10007(a), added subsec. (e) and redesignated former subsec. (e) as (f).

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 an 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

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

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-

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