

§ 667f-3. Authorization of appropriations for mitigating losses caused by waterfowl depredation

There are authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation for its investment in the grain transferred pursuant to sections 667f to 667f-3 of this title.

(July 3, 1956, ch. 512, § 4, 70 Stat. 492.)

CODIFICATION

Section was formerly classified to section 445 of Title 7, Agriculture, prior to editorial reclassification and renumbering as this section.

§ 667g. Requisition of surplus grain; prevention of starvation of resident game birds and other resident wildlife; utilization by State agencies; reimbursement for packaging and transporting

For the purpose of meeting emergency situations caused by adverse weather conditions or other factors destructive of important wildlife resources, the States are authorized, upon the request of the State fish and game authority or other State agency having similar authority and a finding by the Secretary of the Interior that any area of the United States is threatened with serious damage or loss to resident game birds and other resident wildlife from starvation, to requisition from the Commodity Credit Corporation grain acquired by the Corporation through price support operations. Such grain may thereafter be furnished to the particular State for direct and sole utilization by the appropriate State agencies for purposes of sections 667g to 667g-2 of this title in such quantities as mutually agreed upon by the State and the Commodity Credit Corporation and subject to such regulations as may be considered desirable by the Corporation. The Corporation shall be reimbursed by the particular State in each instance for the expense of the Corporation in packaging and transporting such grain for purposes of sections 667g to 667g-2 of this title.

(Pub. L. 87-152, § 1, Aug. 17, 1961, 75 Stat. 389.)

CODIFICATION

Section was formerly classified to section 447 of Title 7, Agriculture, prior to editorial reclassification and renumbering as this section.

§ 667g-1. Requisition and use of grain for prevention of starvation of migratory birds; reimbursement for packaging and transporting

Upon a finding by the Secretary of the Interior that migratory birds are threatened with starvation in any area of the United States, the Secretary is authorized to requisition from the Commodity Credit Corporation grain acquired by that Corporation through price support operations in such quantities as may be mutually agreed upon. The Corporation shall be reimbursed by the Secretary for its expense in packaging and transporting of such grain for purposes of sections 667g to 667g-2 of this title.

(Pub. L. 87-152, § 2, Aug. 17, 1961, 75 Stat. 389.)

CODIFICATION

Section was formerly classified to section 448 of Title 7, Agriculture, prior to editorial reclassification and renumbering as this section.

§ 667g-2. Authorization of appropriations for reimbursement of Commodity Credit Corporation

There are authorized to be appropriated such sums as may be necessary to reimburse the Commodity Credit Corporation for its investment in grain transferred pursuant to sections 667g to 667g-2 of this title.

(Pub. L. 87-152, § 3, Aug. 17, 1961, 75 Stat. 389.)

CODIFICATION

Section was formerly classified to section 449 of Title 7, Agriculture, prior to editorial reclassification and renumbering as this section.

SUBCHAPTER II—PROTECTION OF BALD AND GOLDEN EAGLES

§ 668. Bald and golden eagles

(a) Prohibited acts; criminal penalties

Whoever, within the United States or any place subject to the jurisdiction thereof, without being permitted to do so as provided in this subchapter, shall knowingly, or with wanton disregard for the consequences of his act take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner any bald eagle commonly known as the American eagle or any golden eagle, alive or dead, or any part, nest, or egg thereof of the foregoing eagles, or whoever violates any permit or regulation issued pursuant to this subchapter, shall be fined not more than \$5,000 or imprisoned not more than one year or both: *Provided*, That in the case of a second or subsequent conviction for a violation of this section committed after October 23, 1972, such person shall be fined not more than \$10,000 or imprisoned not more than two years, or both: *Provided further*, That the commission of each taking or other act prohibited by this section with respect to a bald or golden eagle shall constitute a separate violation of this section: *Provided further*, That one-half of any such fine, but not to exceed \$2,500, shall be paid to the person or persons giving information which leads to conviction: *Provided further*, That nothing herein shall be construed to prohibit possession or transportation of any bald eagle, alive or dead, or any part, nest, or egg thereof, lawfully taken prior to June 8, 1940, and that nothing herein shall be construed to prohibit possession or transportation of any golden eagle, alive or dead, or any part, nest, or egg thereof, lawfully taken prior to the addition to this subchapter of the provisions relating to preservation of the golden eagle.

(b) Civil penalties

Whoever, within the United States or any place subject to the jurisdiction thereof, without being permitted to do so as provided in this subchapter, shall take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any

manner, any bald eagle, commonly known as the American eagle, or any golden eagle, alive or dead, or any part, nest, or egg thereof of the foregoing eagles, or whoever violates any permit or regulation issued pursuant to this subchapter, may be assessed a civil penalty by the Secretary of not more than \$5,000 for each such violation. Each violation shall be a separate offense. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. In determining the amount of the penalty, the gravity of the violation, and the demonstrated good faith of the person charged shall be considered by the Secretary. For good cause shown, the Secretary may remit or mitigate any such penalty. Upon any failure to pay the penalty assessed under this section, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In hearing any such action, the court must sustain the Secretary's action if supported by substantial evidence.

(c) Cancellation of grazing agreements

The head of any Federal agency who has issued a lease, license, permit, or other agreement authorizing the grazing of domestic livestock on Federal lands to any person who is convicted of a violation of this subchapter or of any permit or regulation issued hereunder may immediately cancel each such lease, license, permit, or other agreement. The United States shall not be liable for the payment of any compensation, reimbursement, or damages in connection with the cancellation of any lease, license, permit, or other agreement pursuant to this section.

(June 8, 1940, ch. 278, §1, 54 Stat. 250; Pub. L. 86-70, §14, June 25, 1959, 73 Stat. 143; Pub. L. 87-884, Oct. 24, 1962, 76 Stat. 1246; Pub. L. 92-535, §1, Oct. 23, 1972, 86 Stat. 1064.)

REFERENCES IN TEXT

Prior to the addition to this subchapter of the provisions relating to preservation of the golden eagle, referred to in subsec. (a), means prior to Oct. 24, 1962, the date such provisions were enacted by Pub. L. 87-884 as an amendment of this section and section 668a of this title.

AMENDMENTS

1972—Pub. L. 92-535 designated existing provisions as subsec. (a), substituted "shall knowingly, or with wanton disregard for the consequences of his act take" for "shall take", increased fine and imprisonment terms from \$500 or six months to \$5,000 or one year, and inserted provisions that a second conviction carry a penalty of \$10,000 fine or imprisonment of not more than two years, that each taking constitute a separate offense, and that informers be rewarded one-half of the fine not exceeding \$2,500, and added subsecs. (b) and (c).

1962—Pub. L. 87-884 extended prohibitions against the enumerated acts to the golden eagle and changed proviso by substituting "bald eagle", "June 8, 1940" and "and that nothing in said sections shall be construed to prohibit possession or transportation of any golden eagle, alive or dead, or any part, nest, or egg thereof, lawfully taken prior to the addition to said sections of the provisions relating to preservation of the golden eagle" for "such eagle," "the effective date of said sec-

tions" and "but the proof of such taking shall lie upon the accused in any prosecution under said sections", respectively.

1959—Pub. L. 86-70 struck out "except the Territory of Alaska," after "subject to the jurisdiction thereof,".

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with this subchapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

LEGISLATIVE INTENT

Enacting clause of act June 8, 1940, provided:

"Whereas the Continental Congress in 1782 adopted the bald eagle as the national symbol; and

"Whereas the bald eagle thus became the symbolic representation of a new nation under a new government in a new world; and

"Whereas by that act of Congress and by tradition and custom during the life of this Nation, the bald eagle is no longer a mere bird of biological interest but a symbol of the American ideals of freedom; and

"Whereas the bald eagle is now threatened with extinction: Therefore

"Be it enacted * * *", etc.

§ 668a. Taking and using of the bald and golden eagle for scientific, exhibition, and religious purposes

Whenever, after investigation, the Secretary of the Interior shall determine that it is compatible with the preservation of the bald eagle or the golden eagle to permit the taking, possession, and transportation of specimens thereof for the scientific or exhibition purposes of public museums, scientific societies, and zoological parks, or for the religious purposes of Indian tribes, or that it is necessary to permit the taking of such eagles for the protection of wildlife or of agricultural or other interests in any particular locality, he may authorize the taking of such eagles pursuant to regulations which he is hereby authorized to prescribe: *Provided*, That on request of the Governor of any State, the Secretary of the Interior shall authorize the taking of golden eagles for the purpose of seasonally protecting domesticated flocks and herds in such State, in accordance with regulations established under the provisions of this section, in such part or parts of such State and for such periods as the Secretary determines to be necessary to protect such interests: *Provided further*, That bald eagles may not be taken for any purpose unless, prior to such taking, a permit to do so is procured from the Secretary of the Interior: *Provided further*, That the Sec-

retary of the Interior, pursuant to such regulations as he may prescribe, may permit the taking, possession, and transportation of golden eagles for the purposes of falconry, except that only golden eagles which would be taken because of depredations on livestock or wildlife may be taken for purposes of falconry: *Provided further*, That the Secretary of the Interior, pursuant to such regulations as he may prescribe, may permit the taking of golden eagle nests which interfere with resource development or recovery operations.

(June 8, 1940, ch. 278, §2, 54 Stat. 251; Pub. L. 87-884, Oct. 24, 1962, 76 Stat. 1246; Pub. L. 92-535, §2, Oct. 23, 1972, 86 Stat. 1065; Pub. L. 95-616, §9, Nov. 8, 1979, 92 Stat. 3114.)

AMENDMENTS

1978—Pub. L. 95-616 authorized taking of golden eagle nests which interfere with resource development or recovery operations.

1972—Pub. L. 92-535 inserted proviso that the Secretary of the Interior may permit the taking, possession, and transportation of golden eagles for the purposes of falconry with exception that only golden eagles that cause depredations on livestock and wildlife may be taken for falconry.

1962—Pub. L. 87-884 extended provisions of section to the golden eagle, permitted the taking of specimens for the religious purposes of Indian tribes and authorized the taking of golden eagles for purpose of seasonally protecting domesticated flocks and herds.

POLICY CONCERNING DISTRIBUTION OF EAGLE FEATHERS FOR NATIVE AMERICAN RELIGIOUS PURPOSES

Memorandum of President of the United States, Apr. 29, 1994, 59 F.R. 22953, provided:

Memorandum for the Heads of Executive Departments and Agencies

Eagle feathers hold a sacred place in Native American culture and religious practices. Because of the feathers' significance to Native American heritage and consistent with due respect for the government-to-government relationship between the Federal and Native American tribal governments, this Administration has undertaken policy and procedural changes to facilitate the collection and distribution of scarce eagle bodies and parts for this purpose. This memorandum affirms and formalizes executive branch policy to ensure that progress begun on this important matter continues across the executive branch.

Today, as part of an historic meeting with all federally recognized tribal governments, I am directing executive departments and agencies (hereafter collectively "agency" or "agencies") to work cooperatively with tribal governments and to reexamine broadly their practices and procedures to seek opportunities to accommodate Native American religious practices to the fullest extent under the law.

As part of these efforts, agencies shall take steps to improve their collection and transfer of eagle carcasses and eagle body parts ("eagles") for Native American religious purposes. The success of this initiative requires the participation, and is therefore the responsibility, of all Federal land managing agencies, not just those within the Department of the Interior. I therefore direct each agency responsible for managing Federal lands to diligently and expeditiously recover salvageable eagles found on lands under their jurisdiction and ensure that the eagles are promptly shipped to the National Eagle Repository ("Repository"). To assist agencies in this expanded effort, the Secretary of the Interior shall issue guidelines to all relevant agencies for the proper shipment of eagles to the Repository. After receiving these guidelines, agencies shall immediately adopt policies, practices, and procedures necessary in accordance with these guidelines to recover and transfer eagles to the Repository promptly.

I support and encourage the initial steps taken by the Department of the Interior to improve the distribution of eagles for Native American religious purposes. In particular, the Department of the Interior shall continue to adopt policies and procedures and take those actions necessary to:

(a) ensure the priority of distribution of eagles, upon permit application, first for traditional Native American religious purposes, to the extent permitted by law, and then to other uses;

(b) simplify the eagle permit application process quickly and to the greatest extent possible to help achieve the objectives of this memorandum;

(c) minimize the delay and ensure respect and dignity in the process of distributing eagles for Native American religious purposes to the greatest extent possible;

(d) expand efforts to involve Native American tribes, organizations, and individuals in the distribution process, both at the Repository and on tribal lands, consistent with applicable laws;

(e) review means to ensure that adequate refrigerated storage space is available to process the eagles; and

(f) continue efforts to improve the Repository's ability to facilitate the objectives of this memorandum.

The Department of the Interior shall be responsible for coordinating any interagency efforts to address continuing executive branch actions necessary to achieve the objectives of this memorandum.

We must continue to be committed to greater inter-governmental communication and cooperation. In addition to working more closely with tribal governments, we must enlist the assistance of, and cooperate with, State and local governments to achieve the objectives of this memorandum. I therefore request that the Department of the Interior work with State fish and game agencies and other relevant State and local authorities to facilitate the objectives of this memorandum.

With commitment and cooperation by all of the agencies in the executive branch and with tribal governments, I am confident that we will be able to accomplish meaningful progress in the distribution of eagles for Native American religious purposes.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§ 668b. Enforcement provisions

(a) Arrest; search; issuance and execution of warrants and process

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this subchapter may, without warrant, arrest any person committing in his presence or view a violation of this subchapter or of any permit or regulations 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 subchapter; 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 subchapter, and by said agreements to delegate such enforcement authority to State law enforcement personnel as he deems appropriate for effective enforcement of this subchapter. 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.

(b) Forfeiture

All bald or golden eagles, or parts, nests, or eggs thereof, taken, possessed, sold, purchased, bartered, offered for sale, purchase, or barter, transported, exported, or imported contrary to the provisions of this subchapter, or of any permit or regulation issued hereunder, and all guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid in the taking, possessing, selling, purchasing, bartering, offering for sale, purchase, or barter, transporting, exporting, or importing of any bird, or part, nest, or egg thereof, in violation of this subchapter or of any permit or regulation issued hereunder shall be subject to forfeiture to the United States.

(c) 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 subchapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this subchapter: *Provided*, 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 subchapter, be exercised or performed by the Secretary of the Interior or by such persons as he may designate.

(June 8, 1940, ch. 278, § 3, 54 Stat. 251; Pub. L. 90-578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 92-535, § 3, Oct. 23, 1972, 86 Stat. 1065; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1972—Pub. L. 92-535 substituted provisions relating to enforcement of this subchapter including arrest, without warrant, issuance and execution of warrants and process, search, forfeiture, and applicability of certain customs laws, for provisions incorporating provisions of section 706 in haec verba.

CHANGE OF NAME

“United States magistrate judge” substituted for “United States magistrate” in subsec. (a) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, “United States magistrate” substituted for “United States commissioner” in subsec. (a) pursuant to Pub. L. 90-578. See chapter 43 (§ 631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with this subchapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, § 102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix

to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 668c. Definitions

As used in this subchapter “whoever” includes also associations, partnerships, and corporations; “take” includes also pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb; “transport” includes also ship, convey, carry, or transport by any means whatever, and deliver or receive or cause to be delivered or received for such shipment, conveyance, carriage, or transportation.

(June 8, 1940, ch. 278, § 4, 54 Stat. 251; Pub. L. 92-535, § 4, Oct. 23, 1972, 86 Stat. 1065.)

AMENDMENTS

1972—Pub. L. 92-535 substituted “poison, wound, kill, capture, trap, collect, molest” for “wound, kill, capture, trap, collect, or otherwise willfully molest”.

§ 668d. Availability of appropriations for Migratory Bird Treaty Act

Moneys now or hereafter available to the Secretary of the Interior for the administration and enforcement of the Migratory Bird Treaty Act of July 3, 1918 [16 U.S.C. 703 et seq.], shall be equally available for the administration and enforcement of this subchapter.

(June 8, 1940, ch. 278, § 5, 54 Stat. 251.)

REFERENCES IN TEXT

The Migratory Bird Treaty Act, referred to in text, is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

SUBCHAPTER III—ENDANGERED SPECIES OF FISH AND WILDLIFE

§§ 668aa to 668cc-6. Repealed. Pub. L. 93-205, § 14, Dec. 28, 1973, 87 Stat. 903

The provisions of sections 668aa to 668cc-6, which, pursuant to section 12(d) of Pub. L. 91-135, Dec. 5, 1969, 83 Stat. 283, were known as the “Endangered Species Conservation Act of 1969”, are covered by section 1531 et seq. of this title.

Section 668aa, Pub. L. 89-669, § 1, Oct. 15, 1966, 80 Stat. 926; Pub. L. 91-135, § 12(a), (e), Dec. 5, 1969, 83 Stat. 282, 283, set out the Congressional findings, declaration of policy, and statement of purposes in seeking the protection of endangered species of fish and wildlife.

Section 668bb, Pub. L. 89-669, § 2, Oct. 15, 1966, 80 Stat. 926; Pub. L. 91-135, § 12(b), (c), Dec. 5, 1969, 83 Stat. 282, set out the powers and duties of the Secretary of the Interior in carrying out the mandate of the Endangered Species Conservation Act of 1969.

Section 668cc, Pub. L. 89-669, § 3, Oct. 15, 1966, 80 Stat. 927, covered the Secretary's duty to cooperate with the States, area administration, management agreements, and disposition of revenues.

Section 668cc-1, Pub. L. 91-135, § 1, Dec. 5, 1969, 83 Stat. 275, defined “Secretary”, “fish or wildlife”, “United States”, and “person”.