CHAPTER 5A—PROTECTION AND CONSERVATION OF WILDLIFE

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SUBCHAPTER I—GAME, FUR-BEARING ANIMALS, AND FISH

§ 661. Declaration of purpose; cooperation of agencies; surveys and investigations; donations

For the purpose of recognizing the vital contribution of our wildlife resources to the Nation, the increasing public interest and significance thereof due to expansion of our national economy and other factors, and to provide that wildlife conservation shall receive equal consideration and be coordinated with other features of water-resource development programs through the effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation for the purposes of sections 661 to 666c of this title in the United States, its Territories and possessions, the Secretary of the Interior is authorized (1) to provide assistance to, and cooperate with, Federal, State, and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes, in minimizing damages from overabundant species, in providing public shooting and fishing areas, including easements across public lands for access thereto, and in carrying out other measures necessary to effectuate the purposes of said sections; (2) to make surveys and investigations of the wildlife of the public domain, including lands and waters or interests therein acquired or controlled by any agency of the United States; and (3) to accept donations of land and contributions of funds in furtherance of the purposes of said sections.

(Mar. 10, 1934, ch. 55, § 1, 48 Stat. 401; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Aug. 14, 1946, ch. 965, 60 Stat. 1080; Pub. L. 85–624, § 2, Aug. 12, 1958, 72 Stat. 563.)

AMENDMENTS

1958—Pub. L. 85–624 inserted provisions which relate to recognition of the vital contribution of wildlife resources to the Nation, the increasing public interest and significance thereof, and to equal consideration and coordination of wildlife conservation with other water-resources development programs, and which authorize the Secretary to provide public fishing areas, and to accept donations of lands and contributions of funds.

1946—Act Aug. 14, 1946, amended section generally in order to promote more effectual planning and cooperation between Federal, State, public, and private agencies for the conservation and rehabilitation of wildlife.

SHORT TITLE

Section 1 of Pub. L. 85–624 provided: ''That the Act of March 10, 1934, as amended, and as further amended by this Act [sections 661 to 666c of this title] may be cited as the 'Fish and Wildlife Coordination Act'.''

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with wildlife consultation in sections 661 to 666c of this title and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with sections 661 to 666c of this title 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), (f), 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.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

Functions, appropriations, records, and property of Secretary of the Interior and Fish and Wildlife Service of Department of the Interior which affect or relate to breeding, raising, producing, marketing, or any other phase of production or distribution of domestically raised fur-bearing animals, or the products thereof transferred to Secretary of Agriculture by section 434 of Title 7, Agriculture.

Reorg. Plan No. III of 1940, §3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees, consolidated Bureau of Fisheries and Bureau of Biological Survey with their respective functions into one agency in Department of the Interior to be known as the Fish and Wildlife Service, and abolished the office of Commissioner and Deputy Commissioner of Fisheries and transferred their functions to the consolidated agency.

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, transferred Bureau of Fisheries in Department of Commerce, and its functions, to Department of the Interior; transferred functions of Secretary of Commerce relating to protection of fur seals and other fur-bearing animals to Secretary of the Interior; and transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

APPROPRIATIONS

Section 4 of Pub. L. 85–624 provided that: ''There is hereby authorized to be appropriated and expended such funds as may be necessary to carry out the purposes of this Act [amending this section and sections 662 to 664 of this title and enacting section 1008 of this title].''

STUDY OF SOFT- AND HARD-SHELL CLAMS

Act May 26, 1948, ch. 348, 62 Stat. 274, directed the Fish and Wildlife Service to undertake, in cooperation with appropriate State and interstate agencies in accordance with the provisions of the Act of August 14, 1946 (60 Stat. 1080), comprehensive studies of the soft-shell clam, Mya arenaria, and the hard-shell clam, Venus mercenaria, with particular respect to the biology, propagation, and methods of cultivation of such clams, required the Service to recommend appropriate measures for (1) arresting depletion in existing productive beds; (2) restoring to production beds formerly productive but now barren or unusable; (3) developing new areas which may be found suitable; (4) improving methods and techniques of digging, transplanting, and handling; and (5) otherwise increasing production and improving the quality of such clams for the benefit of both producers and consumers, and authorized for the five-year period beginning July 1, 1948, the sum of $250,000 to carry out the studies of the soft-shell clam and the sum of $250,000 to carry out the studies of the hard-shell clam.

EX. ORD. NO. 13443. FACILITATION OF HUNTING HERITAGE AND WILDLIFE CONSERVATION

Ex. Ord. No. 13443, Aug. 16, 2007, 72 F.R. 46537, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose*. The purpose of this order is to direct Federal agencies that have programs and activities that have a measurable effect on public land management, outdoor recreation, and wildlife management, including the Department of the Interior and the Department of Agriculture, to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat.

SEC. 2. *Federal Activities*. Federal agencies shall, consistent with agency missions:

(a) Evaluate the effect of agency actions on trends in hunting participation and, where appropriate to address declining trends, implement actions that expand and enhance hunting opportunities for the public;

(b) Consider the economic and recreational values of hunting in agency actions, as appropriate;

(c) Manage wildlife and wildlife habitats on public lands in a manner that expands and enhances hunting opportunities, including through the use of hunting in wildlife management planning;

(d) Work collaboratively with State governments to manage and conserve game species and their habitats in a manner that respects private property rights and State management authority over wildlife resources;

(e) Establish short and long term goals, in cooperation with State and tribal governments, and consistent with agency missions, to foster healthy and productive populations of game species and appropriate opportunities for the public to hunt those species;

(f) Ensure that agency plans and actions consider programs and recommendations of comprehensive planning efforts such as State Wildlife Action Plans, the North American Waterfowl Management Plan, and other range-wide management plans for big game and upland game birds;

(g) Seek the advice of State and tribal fish and wildlife agencies, and, as appropriate, consult with the Sporting Conservation Council and other organizations, with respect to the foregoing Federal activities.

SEC. 3. *North American Wildlife Policy Conference*. The Chairman of the Council on Environmental Quality (Chairman) shall, in coordination with the appropriate Federal agencies and in consultation with the Sporting Conservation Council and in cooperation with State and tribal fish and wildlife agencies and the public, convene not later than 1 year after the date of this order, and periodically thereafter at such times as the Chairman deems appropriate, a White House Conference on North American Wildlife Policy (Conference) to facilitate the exchange of information and advice relating to the means for achieving the goals of this order.

SEC. 4. *Recreational Hunting and Wildlife Resource Conservation Plan*. The Chairman shall prepare, consistent with applicable law and subject to the availability of appropriations, in coordination with the appropriate Federal agencies and in consultation with the Sporting Conservation Council, and in cooperation with State and tribal fish and wildlife agencies, not later than 1 year following the conclusion of the Conference, a comprehensive Recreational Hunting and Wildlife Conservation Plan that incorporates existing and ongoing activities and sets forth a 10-year agenda for fulfilling the actions identified in section 2 of this order.

SEC. 5. *Judicial Review*. This order is not intended to, and does not, create any right, benefit, trust responsibility, or privilege, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

§ 662. Impounding, diverting, or controlling of waters

(a) Consultations between agencies

Except as hereafter stated in subsection (h) of this section, whenever the waters of any stream or other body of water are proposed or authorized to be impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the United States, or by any public or private agency under Fed-

eral permit or license, such department or agency first shall consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular State wherein the impoundment, diversion, or other control facility is to be constructed, with a view to the conservation of wildlife resources by preventing loss of and damage to such resources as well as providing for the development and improvement thereof in connection with such water-resource development.

(b) Reports and recommendations; consideration

In furtherance of such purposes, the reports and recommendations of the Secretary of the Interior on the wildlife aspects of such projects, and any report of the head of the State agency exercising administration over the wildlife resources of the State, based on surveys and investigations conducted by the United States Fish and Wildlife Service and such State agency for the purpose of determining the possible damage to wildlife resources and for the purpose of determining means and measures that should be adopted to prevent the loss of or damage to such wildlife resources, as well as to provide concurrently for the development and improvement of such resources, shall be made an integral part of any report prepared or submitted by any agency of the Federal Government responsible for engineering surveys and construction of such projects when such reports are presented to the Congress or to any agency or person having the authority or the power, by administrative action or otherwise, (1) to authorize the construction of water-resource development projects or (2) to approve a report on the modification or supplementation of plans for previously authorized projects, to which sections 661 to 666c of this title apply. Recommendations of the Secretary of the Interior shall be as specific as is practicable with respect to features recommended for wildlife conservation and development, lands to be utilized or acquired for such purposes, the results expected, and shall describe the damage to wildlife attributable to the project and the measures proposed for mitigating or compensating for these damages. The reporting officers in project reports of the Federal agencies shall give full consideration to the report and recommendations of the Secretary of the Interior and to any report of the State agency on the wildlife aspects of such projects, and the project plan shall include such justifiable means and measures for wildlife purposes as the reporting agency finds should be adopted to obtain maximum overall project benefits.

(c) Modification of projects; acquisition of lands

Federal agencies authorized to construct or operate water-control projects are authorized to modify or add to the structures and operations of such projects, the construction of which has not been substantially completed on the date of enactment of the Fish and Wildlife Coordination Act, and to acquire lands in accordance with section 663 of this title, in order to accommodate the means and measures for such conservation of wildlife resources as an integral part of such projects: *Provided*, That for projects authorized by a specific Act of Congress before the date of enactment of the Fish and Wildlife Coordination Act (1) such modification or land acquisition shall be compatible with the purposes for which the project was authorized; (2) the cost of such modifications or land acquisition, as means and measures to prevent loss of and damage to wildlife resources to the extent justifiable, shall be an integral part of the cost of such projects; and (3) the cost of such modifications or land acquisition for the development or improvement of wildlife resources may be included to the extent justifiable, and an appropriate share of the cost of any project may be allocated for this purpose with a finding as to the part of such allocated cost, if any, to be reimbursed by non-Federal interests.

(d) Project costs

The cost of planning for and the construction or installation and maintenance of such means and measures adopted to carry out the conservation purposes of this section shall constitute an integral part of the cost of such projects: *Provided*, That such cost attributable to the development and improvement of wildlife shall not extend beyond that necessary for (1) land acquisition, (2) facilities as specifically recommended in water resource project reports, (3) modification of the project, and (4) modification of project operations, but shall not include the operation of wildlife facilities.

(e) Transfer of funds

In the case of construction by a Federal agency, that agency is authorized to transfer to the United States Fish and Wildlife Service, out of appropriations or other funds made available for investigations, engineering, or construction, such funds as may be necessary to conduct all or part of the investigations required to carry out the purposes of this section.

(f) Estimation of wildlife benefits or losses

In addition to other requirements, there shall be included in any report submitted to Congress supporting a recommendation for authorization of any new project for the control or use of water as described herein (including any new division of such project or new supplemental works on such project) an estimation of the wildlife benefits or losses to be derived therefrom including benefits to be derived from measures recommended specifically for the development and improvement of wildlife resources, the cost of providing wildlife benefits (including the cost of additional facilities to be installed or lands to be acquired specifically for that particular phase of wildlife conservation relating to the development and improvement of wildlife), the part of the cost of joint-use facilities allocated to wildlife, and the part of such costs, if any, to be reimbursed by non-Federal interests.

(g) Applicability to projects

The provisions of this section shall be applicable with respect to any project for the control or use of water as prescribed herein, or any unit of such project authorized before or after the date of enactment of the Fish and Wildlife Coordination Act for planning or construction, but shall not be applicable to any project or unit thereof

authorized before the date of enactment of the Fish and Wildlife Coordination Act if the construction of the particular project or unit thereof has been substantially completed. A project or unit thereof shall be considered to be substantially completed when sixty percent or more of the estimated construction cost has been obligated for expenditure.

(h) Exempt projects and activities

The provisions of section 661 to 666c of this title shall not be applicable to those projects for the impoundment of water where the maximum surface area of such impoundments is less than ten acres, nor to activities for or in connection with programs primarily for land management and use carried out by Federal agencies with respect to Federal lands under their jurisdiction.

(Mar. 10, 1934, ch. 55, § 2, 48 Stat. 401; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Aug. 14, 1946, ch. 965, 60 Stat. 1080; Pub. L. 85–624, § 2, Aug. 12, 1958, 72 Stat. 564; Pub. L. 89–72, § 6(b), July 9, 1965, 79 Stat. 216.)

REFERENCES IN TEXT

The date of enactment of the Fish and Wildlife Coordination Act, referred to in subsecs. (c) and (g), probably refers to the date of enactment of Pub. L. 85–624, Aug. 12, 1958. See, also, Short Title note set out under section 661 of this title.

AMENDMENTS

1965—Subsec. (d). Pub. L. 89–72 added cl. (2) to proviso, redesignated cls. (2) and (3) thereof as (3) and (4), struck out ''nor the construction of such facilities beyond those herein described'' after ''wildlife facilities'' and struck out a second proviso which applied to projects constructed under Federal reclamation laws and required the Secretary of the Interior, in addition to allocations made under section 485h of Title 43, to make findings on part of estimated cost of the project which can properly be allocated to means and measures to prevent loss and damage to wildlife resources, which costs shall not be reimbursable, and provided for allocation of project costs to development and improvement of wildlife resources, now covered by sections 460*l*–12 to 460*l*–21 of this title.

1958—Pub. L. 85–624 amended section generally to require consultations with a view to the conservation of resources by providing for the development and improvement thereof in connection with water-resource development, to provide for inclusion of reports and recommendations of the Secretary of the Interior and of the heads of State agencies in reports prepared or submitted by agencies responsible for engineering surveys and construction of projects when such reports are presented to the Congress or to any agency or person having the authority or the power to authorize the construction of water-resource development projects or to approve a report on the modification or supplementation of plans for previously authorized projects, to authorize modification of projects and acquisition of lands, and to require an estimation of benefits or losses to wildlife to be incorporated in the reports submitted to the Congress.

1946—Act Aug. 14, 1946, amended section generally to provide for consultations between any agencies and the Fish and Wildlife Service and head of State agency exercising administration over State wildlife resources prior to the impounding of water in order to prevent loss and damage to wildlife resources. Former provisions of this section are covered by section 665 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note set out under section 661 of this title.

§ 663. Impoundment or diversion of waters

(a) Conservation, maintenance, and management of wildlife resources; development and improvement

Subject to the exceptions prescribed in section 662(h) of this title, whenever the waters of any stream or other body of water are impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or agency of the United States, adequate provision, consistent with the primary purposes of such impoundment, diversion, or other control, shall be made for the use thereof, together with any areas of land, water, or interests therein, acquired or administered by a Federal agency in connection therewith, for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon, including the development and improvement of such wildlife resources pursuant to the provisions of section 662 of this title.

(b) Use and availability of waters, land, or interests therein

The use of such waters, land, or interests therein for wildlife conservation purposes shall be in accordance with general plans approved jointly (1) by the head of the particular department or agency exercising primary administration in each instance, (2) by the Secretary of the Interior, and (3) by the head of the agency exercising the administration of the wildlife resources of the particular State wherein the waters and areas lie. Such waters and other interests shall be made available, without cost for administration, by such State agency, if the management of the properties relate to the conservation of wildlife other than migratory birds, or by the Secretary of the Interior, for administration in such manner as he may deem advisable, where the particular properties have value in carrying out the national migratory bird management program: *Provided*, That nothing in this section shall be construed as affecting the authority of the Secretary of Agriculture to cooperate with the States or in making lands available to the States with respect to the management of wildlife and wildlife habitat on lands administered by him.

(c) Acquisition of land, waters, and interests therein; report to Congress

When consistent with the purposes of sections 661 to 666c of this title and the reports and findings of the Secretary of the Interior prepared in accordance with section 662 of this title, land, waters, and interests therein may be acquired by Federal construction agencies for the wildlife conservation and development purposes of sections 661 to 666c of this title in connection with a project as reasonably needed to preserve and assure for the public benefit the wildlife potentials of the particular project area: *Provided*, That before properties are acquired for this purpose, the probable extent of such acquisition shall be set forth, along with other data necessary for project authorization, in a report submitted to the Congress, or in the case of a project previously authorized, no such prop-

erties shall be acquired unless specifically authorized by Congress, if specific authority for such acquisition is recommended by the construction agency.

(d) Use of acquired properties

Properties acquired for the purposes of this section shall continue to be used for such purposes, and shall not become the subject of exchange or other transactions if such exchange or other transaction would defeat the initial purpose of their acquisition.

(e) Availability of Federal lands acquired or withdrawn for Federal water-resource purposes

Federal lands acquired or withdrawn for Federal water-resource purposes and made available to the States or to the Secretary of the Interior for wildlife management purposes, shall be made available for such purposes in accordance with sections 661 to 666c of this title, notwithstanding other provisions of law.

(f) National forest lands

Any lands acquired pursuant to this section by any Federal agency within the exterior boundaries of a national forest shall, upon acquisition, be added to and become national forest lands, and shall be administered as a part of the forest within which they are situated, subject to all laws applicable to lands acquired under the provisions of the Act of March 1, 1911 (36 Stat. 961), unless such lands are acquired to carry out the National Migratory Bird Management Program.

(Mar. 10, 1934, ch. 55, § 3, 48 Stat. 401; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 14, 1946, ch. 965, 60 Stat. 1080; Pub. L. 85–624, § 2, Aug. 12, 1958, 72 Stat. 566.)

REFERENCES IN TEXT

Act of March 1, 1911, referred to in text, is act Mar. 1, 1911, ch. 186, 36 Stat. 961, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

AMENDMENTS

1958—Subsec. (a). Pub. L. 85–624 designated first sentence of existing provisions as subsec. (a), and, among other changes, inserted ''Subject to the exceptions prescribed in section 662(h) of this title'' before ''whenever the waters'', substituted ''diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage'' for ''diverted, or otherwise controlled for any purpose whatever'', and inserted provisions requiring adequate provision to be made for the development and improvement of wildlife resources pursuant to the provisions of section 662 of this title.

Subsec. (b). Pub. L. 85–624 designated second sentence of existing provisions as subsec. (b), included the use of land for wildlife conservation purpose, and provided that nothing in this section shall be construed as effecting the authority of the Secretary of Agriculture to cooperate with the States or in making lands available to the States with respect to the management of wildlife and wildlife habitat on lands administered by him.

Subsecs. (c) to (f). Pub. L. 85–624 added subsecs. (c) to (f).

1946—Act Aug. 14, 1946, amended section generally to provide for conservation and maintenance of wildlife resources upon impounding of waters, and to provide for free use of waters under certain conditions.

TRANSFER OF FUNCTIONS

See Transfer of Functions note set out under section 661 of this title.

§ 664. Administration; rules and regulations; availability of lands to State agencies

Such areas as are made available to the Secretary of the Interior for the purposes of sections 661 to 666c of this title, pursuant to sections 661 and 663 of this title or pursuant to any other authorization, shall be administered by him directly or in accordance with cooperative agreements entered into pursuant to the provisions of section 661 of this title and in accordance with such rules and regulations for the conservation, maintenance, and management of wildlife, resources thereof, and its habitat thereon, as may be adopted by the Secretary in accordance with general plans approved jointly by the Secretary of the Interior and the head of the department or agency exercising primary administration of such areas: *Provided*, That such rules and regulations shall not be inconsistent with the laws for the protection of fish and game of the States in which such area is situated: *Provided, further*, That lands having value to the National Migratory Bird Management Program may, pursuant to general plans, be made available without cost directly to the State agency having control over wildlife resources, if it is jointly determined by the Secretary of the Interior and such State agency that this would be in the public interest: *And provided further*, That the Secretary of the Interior shall have the right to assume the management and administration of such lands in behalf of the National Migratory Bird Management Program if the Secretary finds that the State agency has withdrawn from or otherwise relinquished such management and administration.

(Mar. 10, 1934, ch. 55, § 4, 48 Stat. 402; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 14, 1946, ch. 965, 60 Stat. 1080; Pub. L. 85–624, § 2, Aug. 12, 1958, 72 Stat. 567.)

AMENDMENTS

1958—Pub. L. 85–624 permitted lands having value to the National Bird Management Program to be made available directly to the State agency having control over wildlife resources.

1946—Act Aug. 14, 1946, amended section generally to provide for administration of wildlife areas, and for the promulgation of rules and regulations.

TRANSFER OF FUNCTIONS

See Transfer of Functions note set out under section 661 of this title.

§ 665. Investigations as to effect of sewage, industrial wastes; reports

The Secretary of the Interior, through the Fish and Wildlife Service and the United States Bureau of Mines, is authorized to make such investigations as he deems necessary to determine the effects of domestic sewage, mine, petroleum, and industrial wastes, erosion silt, and other polluting substances on wildlife, and to make reports to the Congress concerning such investigations and of recommendations for alleviating

dangerous and undesirable effects of such pollution. These investigations shall include (1) the determination of standards of water quality for the maintenance of wildlife; (2) the study of methods of abating and preventing pollution, including methods for the recovery of useful or marketable products and byproducts of wastes; and (3) the collation and distribution of data on the progress and results of such investigations for the use of Federal, State, municipal, and private agencies, individuals, organizations, or enterprises.

(Mar. 10, 1934, ch. 55, § 5, 48 Stat. 402; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 14, 1946, ch. 965, 60 Stat. 1080; Pub. L. 102–285, § 10(b), May 18, 1992, 106 Stat. 172.)

AMENDMENTS

1946—Act Aug. 14, 1946, amended section generally to provide for investigations as to the effect of sewage and industrial waste on wildlife.

CHANGE OF NAME

''United States Bureau of Mines'' substituted in text for ''Bureau of Mines'' pursuant to section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see Transfer of Functions note set out under section 1 of Title 30.

TRANSFER OF FUNCTIONS

See Transfer of Functions note set out under section 661 of this title.

§ 665a. Maintenance of adequate water levels in upper Mississippi River

In the management of existing facilities (including locks, dams, and pools) in the Mississippi River between Rock Island, Illinois, and Minneapolis, Minnesota, administered by the United States Corps of Engineers of the Department of the Army, that Department is directed to give full consideration and recognition to the needs of fish and other wildlife resources and their habitat dependent on such waters, without increasing additional liability to the Government, and, to the maximum extent possible without causing damage to levee and drainage districts, adjacent railroads and highways, farm lands, and dam structures, shall generally operate and maintain pool levels as though navigation was carried on throughout the year.

(Mar. 10, 1934, ch. 55, § 5A, as added June 19, 1948, ch. 528, 62 Stat. 497.)

§ 666. Authorization of appropriations

There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of sections 661 to 666c of this title and regulations made pursuant thereto, including the construction of such facilities, buildings, and other improvements necessary for economical administration of areas made available to the Secretary of the Interior under said sections, and the employment in the city of Washington and elsewhere of such persons and means as the Secretary of the Interior may deem necessary for such purposes.

(Mar. 10, 1934, ch. 55, § 6, 48 Stat. 402; Aug. 14, 1946, ch. 965, 60 Stat. 1080.)

AMENDMENTS

1946—Act Aug. 14, 1946, amended section generally to provide for the necessary appropriations to carry out the purposes of sections 661 to 666c of this title.

§ 666a. Penalties

Any person who shall violate any rule or regulation promulgated in accordance with sections 661 to 666c of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $500 or imprisoned for not more than one year, or both.

(Mar. 10, 1934, ch. 55, § 7, as added Aug. 14, 1946, ch. 965, 60 Stat. 1080.)

§ 666b. Definitions

The terms ''wildlife'' and ''wildlife resources'' as used herein include birds, fishes, mammals, and all other classes of wild animals and all types of aquatic and land vegetation upon which wildlife is dependent.

(Mar. 10, 1934, ch. 55, § 8, as added Aug. 14, 1946, ch. 965, 60 Stat. 1080.)

REFERENCES IN TEXT

Herein, referred to in text, means act Mar. 10, 1934, ch. 55, 48 Stat. 401, which is classified generally to sections 661 to 666c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

§ 666c. Applicability to Tennessee Valley Authority

The provisions of sections 661 to 666c of this title shall not apply to the Tennessee Valley Authority.

(Mar. 10, 1934, ch. 55, § 9, as added Aug. 14, 1946, ch. 965, 60 Stat. 1080.)

§ 666d. Skagit National Wildlife Refuge; exchange of lands

The Secretary of the Interior is authorized, in his discretion, at any time within ten years from October 6, 1949, to accept from the State of Washington on behalf of the United States title to any lands in the State of Washington which he deems chiefly valuable for wildlife refuge purposes, and which are equivalent in value to the lands of the United States within the Skagit National Wildlife Refuge, and in exchange therefor to convey by deed on behalf of the United States to the State of Washington the said lands of the United States in the Skagit National Wildlife Refuge.

(Oct. 6, 1949, ch. 619, § 1, 63 Stat. 708.)

§ 666e. Administration of acquired lands

Any lands acquired by the Secretary of the Interior under the terms of this section and section 666d of this title, if located within or adjacent to an existing wildlife refuge or reservation, immediately shall become a part of such refuge or reservation and shall be administered under the laws and regulations applicable thereto, and, if not so located, may be administered

as a migratory-waterfowl management area, refuge, reservation, or breeding ground in accordance with the provisions of sections 661 to 666c of this title, and Acts supplementary thereto.

(Oct. 6, 1949, ch. 619, § 2, 63 Stat. 708.)

§ 666f. Wildlife conservation and agricultural, industrial, recreational, and related uses for certain Federal lands; transfer of lands to Secretary of the Interior; administration, development, and disposition

In order to promote the orderly development and use of the lands and interests therein acquired by the United States in connection with the Crab Orchard Creek project and the Illinois Ordnance Plant in Williamson, Jackson, and Union Counties, Illinois, consistent with the needs of agriculture, industry, recreation, and wildlife conservation, all of the interests of the United States in and to such lands are hereby transferred to the Secretary of the Interior for administration, development, and disposition, in accordance with the provisions of this section and section 666g of this title.

(Aug. 5, 1947, ch. 489, § 1, 61 Stat. 770.)

§ 666g. Classification of lands; industrial leases; moneys subject to section 715s of this title; administration; jurisdiction of Federal agencies

All of the lands transferred to the Secretary of the Interior, pursuant to the provisions of section 666f of this title and this section, first shall be classified by him with a view to determining, in cooperation with Federal, State, and public or private agencies and organizations, the most beneficial use that may be made thereof to carry out the purposes of section 666f of this title and this section, including the development of wildlife conservation, agricultural, recreational, industrial, and related purposes. Such lands as have been or may hereafter be determined to be chiefly valuable for industrial purposes shall be leased for such purposes at such time and under such terms and conditions as the Secretary of the Interior shall prescribe. All moneys received or collected in connection with such leases shall be subject to the provisions of section 715s of this title. Except to the extent otherwise provided in section 666f of this title and this section, all lands herein transferred shall be administered by the Secretary of the Interior through the Fish and Wildlife Service in accordance with the provisions of sections 661 to 666c of this title, and Acts supplementary thereto and amendatory thereof for the conservation of wildlife, and for the development of the agricultural, recreational, industrial, and related purposes specified in section 666f of this title and this section: *Provided*, That no jurisdiction shall be exercised by the Secretary of the Interior over that portion of such lands and the improvements thereon which are now utilized by the Department of the Army directly or indirectly until such time as it is determined by the Secretary of the Army that utilization of such portions of such lands and the improvements thereon directly or indirectly by the Department of the Army is no longer required: *Provided further*, That, subsequent to the determination referred to in the preceding proviso, the lands and improvements mentioned therein shall be administered by the Secretary of the Interior, and any lease or other disposition thereof shall be made subject to such terms, conditions, restrictions, and reservations imposed by the Secretary of the Army as will, in the opinion of the Secretary of the Army, be adequate to assure the continued availability for war production purposes of such lands and improvements.

(Aug. 5, 1947, ch. 489, § 2, 61 Stat. 770; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 95–616, § 8, Nov. 8, 1978, 92 Stat. 3114.)

REFERENCES IN TEXT

Section 715s of this title, referred to in text, was in the original "the Act of June 15, 1935, as amended (49 Stat. 383; 16 U.S.C. 715s)".

AMENDMENTS

1978—Pub. L. 95–616 substituted in second sentence "terms and conditions as the Secretary of the Interior shall prescribe" for "terms and conditions as are consistent with the general purposes of section 2 of the Surplus Property Act of 1944, as amended, and with the purposes of section 666f of this title and this section" and made moneys received or collected in connection with the leases to be subject to section 715s of this title.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

§ 667. Game management supply depots; appropriations

Appropriations made for the administration, protection, maintenance, control, improvements, and development of wildlife sanctuaries, reservations, and refuges under the control of the Secretary of the Interior shall be available for the purchase, transportation, and handling of supplies and materials for distribution at cost from game management supply depots maintained by the Department of the Interior to projects specially provided for, and transfers between the appropriations for said purposes are authorized in order that the cost of supplies and materials, and transportation and handling thereof, drawn from central warehouses so maintained may be charged to the particular project benefited; and such supplies and materials as remain in said depots at the end of any fiscal year shall be continuously available for issuance during subsequent fiscal years and to be charged for by such transfers of funds between said appropriations for the fiscal year then current without decreasing in any way the appropriations made for that fiscal year: *Provided*, That supplies and materials shall not be purchased solely for the purpose of increasing the value of storehouse stock beyond reasonable requirements for any current fiscal year.

(June 24, 1936, ch. 764, 49 Stat. 1913; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

Former first sentence provided for establishment of a game management supply depot and laboratory at Pocatello, Idaho.

TRANSFER OF FUNCTIONS

See Transfer of Functions note set out under section 661 of this title.

§ 667a. Omitted

CODIFICATION

Section, act June 8, 1940, ch. 295, §§ 1–4, 54 Stat. 261, authorized compacts or agreements between or among the States bordering on the Atlantic Ocean with respect to fishing in the territorial waters and bays and inlets of the Atlantic Ocean on which such States border.

Act May 4, 1942, ch. 283, §§ 1–4, 56 Stat. 267, granted the consent and approval of Congress to an interstate compact relating to the better utilization of the fisheries (marine, shell, and anadromous) of the Atlantic seaboard and creating the Atlantic States Marine Fisheries Commission.

Act Aug. 19, 1950, ch. 763, §§ 1–4, 64 Stat. 467, granted the consent and approval of Congress to an amendment to the Atlantic States Marine Fisheries Compact and repealed limitation on the life of such compact.

§ 667b. Transfer of certain real property for wildlife conservation purposes; reservation of rights

Upon request, real property which is under the jurisdiction or control of a Federal agency and no longer required by such agency, (1) can be utilized for wildlife conservation purposes by the agency of the State exercising administration over the wildlife resources of the State wherein the real property lies or by the Secretary of the Interior; and (2) is valuable for use for any such purpose, and which, in the determination of the Administrator of General Services, is available for such use may, notwithstanding any other provisions of law, be transferred without reimbursement or transfer of funds (with or without improvements as determined by said Administrator) by the Federal agency having jurisdiction or control of the property to (a) such State agency if the management thereof for the conservation of wildlife relates to other than migratory birds, or (b) to the Secretary of the Interior if the real property has particular value in carrying out the national migratory bird management program. Any such transfer to other than the United States shall be subject to the reservation by the United States of all oil, gas, and mineral rights, and to the condition that the property shall continue to be used for wildlife conservation or other of the above-stated purposes and in the event it is no longer used for such purposes or in the event it is needed for national defense purposes title thereto shall revert to the United States.

(May 19, 1948, ch. 310, § 1, 62 Stat. 240; June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381; Pub. L. 92–432, Sept. 26, 1972, 86 Stat. 723.)

AMENDMENTS

1972—Cl. (2). Pub. L. 92–432 struck out ''chiefly'' before ''valuable for use''.

TRANSFER OF FUNCTIONS

Functions, records, property, etc., of War Assets Administration transferred to General Services Administration, functions of War Assets Administrator transferred to Administrator of General Services, and War Assets Administration and office of War Assets Administrator abolished by section 105 of act June 30, 1949. Transfer of functions effective July 1, 1949, see section 605, formerly § 505, of act June 30, 1949, ch. 288, 63 Stat. 403; renumbered by act Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

§ 667c. Publication of designating order

Whenever any real property is transferred pursuant to sections 667b to 667d of this title, the Administrator of General Services shall make and have published in the Federal Register an appropriate order, which may be revised from time to time in like manner, designating for which of the purposes specified in section 667b of this title the property so transferred shall be used.

(May 19, 1948, ch. 310, § 2, 62 Stat. 241; June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381.)

TRANSFER OF FUNCTIONS

Functions, records, property, etc., of War Assets Administration transferred to General Services Administration, functions of War Assets Administrator transferred to Administrator of General Services, and War Assets Administration and office of War Assets Administrator abolished by section 105 of act June 30, 1949. Transfer of functions effective July 1, 1949, see section 605, formerly § 505, of act June 30, 1949, ch. 288, 63 Stat. 403; renumbered by act Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

§ 667d. Reports to Congress

A statement of the acreage and value of such property as may have been transferred pursuant to sections 667b to 667d of this title during the preceding fiscal year shall be annually prepared by the Administrator of General Services.

(May 19, 1948, ch. 310, § 3, 62 Stat. 241; June 30, 1949, ch. 288, title I, § 105, 63 Stat. 381; Pub. L. 104–66, title II, § 2091(b), Dec. 21, 1995, 109 Stat. 730.)

AMENDMENTS

1995—Pub. L. 104–66 struck out before period at end ''and shall be included in the annual budget transmitted to the Congress''.

TRANSFER OF FUNCTIONS

Functions, records, property, etc., of War Assets Administration transferred to General Services Administration, functions of War Assets Administrator transferred to Administrator of General Services, and War Assets Administration and office of War Assets Administrator abolished by section 105 of act June 30, 1949. Transfer of functions effective July 1, 1949, see section 605, formerly § 505, of act June 30, 1949, ch. 288, 63 Stat. 403; renumbered by act Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.

§ 667e. Repealed. Pub. L. 97–79, § 9(b)(2), Nov. 16, 1981, 95 Stat. 1079

Section, act May 25, 1900, ch. 553, § 5, 31 Stat. 188, provided that the dead bodies of game animals or game or song birds be subject to the laws of the State into which they are transported. See section 3378(a) of this title.

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 sections" 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