

such terms and conditions that will ensure that the interest will be administered for the long-term conservation and management of the wetland ecosystem and the fish and wildlife dependent thereon.

**(b) Projects in Canada or Mexico**

Subject to the allocation requirements of section 4407(a)(1) of this title and the limitations on Federal contributions under section 4407(b) of this title, the Secretary shall grant or otherwise provide the Federal funds made available under this chapter and section 669b(b) of this title to public agencies and other entities for the purpose of assisting such entities and individuals in carrying out wetlands conservation projects in Canada or Mexico that have been approved by the Migratory Bird Conservation Commission: *Provided*, That the grant recipient shall have been so identified in the project description accompanying the recommendation from the Council and approved by the Migratory Bird Conservation Commission. The Secretary may only grant or otherwise provide Federal funds if the grant is subject to the terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such Federal funds will be administered for the long-term conservation and management of such wetland ecosystem and the fish and wildlife dependent thereon. Real property and interests in real property acquired pursuant to this subsection shall not become part of the National Wildlife Refuge System. Acquisitions of real property and interests in real property carried out pursuant to this subsection shall not be subject to any provision of Federal law governing acquisitions of property for inclusion in the National Wildlife Refuge System.

(Pub. L. 101-233, § 6, Dec. 13, 1989, 103 Stat. 1973.)

**§ 4406. Amounts available to carry out this chapter**

**(a) Omitted**

**(b) Migratory bird fines, penalties, forfeitures**

The sums received under section 707 of this title as penalties or fines, or from forfeitures of property are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 4407 of this title. This subsection shall not be construed to require the sale of instrumentalities.

**(c) Authorization of appropriations**

In addition to the amounts made available under subsections (a) and (b) of this section, there are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 4407 of this title not to exceed—

- (1) \$55,000,000 for fiscal year 2003;
- (2) \$60,000,000 for fiscal year 2004;
- (3) \$65,000,000 for fiscal year 2005;
- (4) \$70,000,000 for fiscal year 2006; and
- (5) \$75,000,000 for each of fiscal years 2008 through 2012.

**(d) Availability of funds**

Sums made available under this section shall be available until expended.

(Pub. L. 101-233, § 7, Dec. 13, 1989, 103 Stat. 1974; Pub. L. 103-375, § 4, Oct. 19, 1994, 108 Stat. 3495; Pub. L. 105-312, title III, § 302, Oct. 30, 1998, 112 Stat. 2958; Pub. L. 106-553, § 1(a)(2) [title IX, § 902(i)], Dec. 21, 2000, 114 Stat. 2762, 2762A-124; Pub. L. 107-308, § 5, Dec. 2, 2002, 116 Stat. 2447; Pub. L. 109-322, § 2, Oct. 11, 2006, 120 Stat. 1756.)

**CODIFICATION**

Section is comprised of section 7 of Pub. L. 101-233. Subsec. (a) of section 7 of Pub. L. 101-233 amended sections 669b and 669c of this title and enacted provisions set out as a note under section 669b of this title.

**AMENDMENTS**

2006—Subsec. (c)(5). Pub. L. 109-322 substituted “each of fiscal years 2008 through 2012” for “fiscal year 2007”.

2002—Subsec. (c). Pub. L. 107-308 substituted “not to exceed—” and pars. (1) to (5) for “not to exceed \$50,000,000 for each of fiscal years 1999 through 2003.”

2000—Subsec. (c). Pub. L. 106-553 substituted “\$50,000,000” for “\$30,000,000”.

1998—Subsec. (c). Pub. L. 105-312 substituted “not to exceed \$30,000,000 for each of fiscal years 1999 through 2003.” for “not to exceed \$20,000,000 for each of fiscal years 1995 and 1996 and \$30,000,000 for each of fiscal years 1997 and 1998.”

1994—Subsec. (c). Pub. L. 103-375 substituted “\$20,000,000 for each of fiscal years 1995 and 1996 and \$30,000,000 for each of fiscal years 1997 and 1998” for “\$15,000,000 for each of fiscal years 1991, 1992, 1993, and 1994”.

**§ 4407. Allocation of amounts available to carry out this chapter**

**(a) Allocations**

Of the sums available to the Secretary for any fiscal year under this chapter and section 669b(b) of this title—

- (1) such percentage of that sum (but at least 30 percent and not more than 60 percent) as is considered appropriate by the Secretary, which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, less such amount (but not more than 4 percent of such percentage) considered necessary by the Secretary to defray the costs of administering this chapter during such fiscal year, shall be allocated by the Secretary to carry out approved wetlands conservation projects in Canada and Mexico in accordance with section 4405(b) of this title; and

- (2) the remainder of such sum after paragraph (1) is applied (but at least 40 percent and not more than 70 percent), which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation projects in the United States in accordance with section 4405(a) of this title.

**(b) Cost sharing**

(1) Except as provided in paragraph (2), as a condition of providing assistance under this chapter for any approved wetlands conservation project, the Secretary shall require that the portion of the costs of the project paid with amounts provided by non-Federal United States sources is equal to at least the amount allocated under subsection (a) of this section that is used for the project.

(2) Federal moneys allocated under subsection (a) of this section may be used to pay 100 percent of the costs of such projects located on Federal lands and waters, including the acquisition of inholdings within such lands and waters.

(3) The non-Federal share of the United States contribution to the costs of such projects may not be derived from Federal grant programs. In the case of a project carried out in Canada or Mexico, the non-Federal share of the costs of the project may include cash contributions from non-United States sources that are used to pay costs of the project. In the case of a project carried out in Canada, funds from Canadian sources may comprise up to 50 percent of the non-Federal share of the costs of the project.

**(c) Partial payments**

(1) The Secretary may from time to time make payments to carry out approved wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (b) of this section.

(2) The Secretary may enter into agreements to make payments on an initial portion of an approved wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent allocations if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purposes of this chapter.

(Pub. L. 101-233, § 8, Dec. 13, 1989, 103 Stat. 1975; Pub. L. 103-375, § 2(a), Oct. 19, 1994, 108 Stat. 3494; Pub. L. 107-308, §§ 6, 7, Dec. 2, 2002, 116 Stat. 2447; Pub. L. 111-149, § 1(a), Mar. 25, 2010, 124 Stat. 1025.)

AMENDMENTS

2010—Subsec. (b)(3). Pub. L. 111-149 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The non-Federal share of the United States contribution to the costs of such projects may not be derived from Federal grant programs. In the case of a project carried out in Mexico, the non-Federal share of the United States contribution to the costs of the project may include cash contributions from non-United States sources that are used to pay costs of the project.”

2002—Subsec. (a)(1). Pub. L. 107-308, § 6(1), substituted “(but at least 30 percent and not more than 60 percent)” for “(but at least 50 per centum and not more than 70 per centum thereof)” and “4 percent” for “4 per centum”.

Subsec. (a)(2). Pub. L. 107-308, § 6(2), substituted “(but at least 40 percent and not more than 70 percent)” for “(but at least 30 per centum and not more than 50 per centum thereof)”.

Subsec. (b). Pub. L. 107-308, § 7, substituted heading for former heading, substituted pars. (1) and (2) for first sentence which read as follows: “The Federal moneys allocated under subsection (a) of this section for any fiscal year to carry out approved wetlands conservation projects shall be used for the payment of not to exceed 50 per centum of the total United States contribution to the costs of such projects, or may be used for payment of 100 per centum of the costs of such projects located on Federal lands and waters, including the acquisition of inholdings within such lands and waters.”, and designated second and third sentences as par. (3).

1994—Subsec. (b). Pub. L. 103-375 inserted at end “In the case of a project carried out in Mexico, the non-

Federal share of the United States contribution to the costs of the project may include cash contributions from non-United States sources that are used to pay costs of the project.”

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-149, § 1(b), Mar. 25, 2010, 124 Stat. 1025, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to any approved and active wetlands conservation project (as that term is used in section 8(b)(1) of such Act [16 U.S.C. 4407(b)(1)]) carried out with assistance provided under such Act [Pub. L. 101-233, 16 U.S.C. 4401 et seq.], including such a project approved before the date of the enactment of this Act [Mar. 25, 2010].”

**§ 4408. Restoration, management, and protection of wetlands and habitat for migratory birds on Federal lands**

The head of each Federal agency responsible for acquiring, managing, or disposing of Federal lands and waters shall, to the extent consistent with the mission of such agency and existing statutory authorities, cooperate with the Director of the United States Fish and Wildlife Service to restore, protect, and enhance the wetland ecosystems and other habitats for migratory birds, fish, and wildlife within the lands and waters of each such agency.

(Pub. L. 101-233, § 9, Dec. 13, 1989, 103 Stat. 1976.)

**§ 4409. Report to Congress**

The Secretary shall report to the appropriate Committees on the implementation of this chapter. The report shall include—

(1) a biennial assessment of—

(A) the estimated number of acres of wetlands and habitat for waterfowl and other migratory birds that were restored, protected, or enhanced during such two-year period by Federal, State, and local agencies and other entities in the United States, Canada, and Mexico;

(B) trends in the population size and distribution of North American migratory birds;

(C) the status of efforts to establish agreements with nations in the Western Hemisphere pursuant to section 4413 of this title; and

(D) wetlands conservation projects funded under this chapter, listed and identified by type, conservation mechanism (such as acquisition, easement, or lease), location, and duration; and

(2) an annual assessment of the status of wetlands conservation projects, including an accounting of expenditures by Federal, State, and other United States entities, and expenditures by Canadian and Mexican sources to carry out these projects.

(Pub. L. 101-233, § 10, Dec. 13, 1989, 103 Stat. 1976; Pub. L. 103-375, § 2(b), Oct. 19, 1994, 108 Stat. 3494; Pub. L. 107-308, § 8(a)(12), (13), Dec. 2, 2002, 116 Stat. 2448.)

REFERENCES IN TEXT

Section 4413 of this title, referred to in par. (1)(C), was in the original a reference to section 16 of Pub. L. 101-233 which enacted section 4413 of this title and amended section 2912 of this title.