

leasing laws of the United States, or otherwise affect valid existing rights.

(Pub. L. 100-691, §9, Nov. 18, 1988, 102 Stat. 4550.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in subsec. (d), have been defined generally to Title 30, Mineral Lands and Mining.

Mineral leasing laws of the United States, referred to in subsec. (d), have been defined in sections 351, 505, 530, and 541e of Title 30, to mean acts Oct. 20, 1914, ch. 330, 38 Stat. 741; Feb. 25, 1920, ch. 85, 41 Stat. 437; Apr. 17, 1926, ch. 158, 44 Stat. 301; and Feb. 7, 1927, ch. 66, 44 Stat. 1057. The act of Oct. 20, 1914, was repealed by Pub. L. 86-252, §1, Sept. 9, 1959, 73 Stat. 490. The act of Feb. 25, 1920, is known as the Mineral Leasing Act and is classified generally to chapter 3A (§181 et seq.) of Title 30. The act of Apr. 17, 1926, is classified generally to subchapter VIII (§271 et seq.) of chapter 3A of Title 30. The act of Feb. 7, 1927, is classified principally to subchapter IX (§281 et seq.) of chapter 3A of Title 30. For complete classification of these Acts to the Code, see Tables.

§ 4309. Savings provision

(a) Water

Nothing in this chapter shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this chapter—

(1) affect the rights or jurisdiction of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground water resource;

(2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States; or

(3) alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

(b) Fish and wildlife

Nothing in this chapter shall be construed as affecting the jurisdiction or responsibilities of the States with respect to fish and wildlife.

(Pub. L. 100-691, §10, Nov. 18, 1988, 102 Stat. 4551.)

§ 4310. Establishment of Cave Research Program

(a) Establishment

In order to provide for needed research relating to cave resources on certain lands in the United States, the Secretary of the Interior, acting through the Director of the National Park Service shall establish and administer a Cave Research Program (hereinafter in this section referred to as the "Program"). The Program shall include the orderly and scholarly collection, analysis, and dissemination of research material related to caves in lands managed by the National Park Service including, but not limited to, Carlsbad Caverns National Park and the Capitan Reef area.

(b) Functions

The Program shall produce educational and interpretive information and materials vital to public understanding of cave geology, assist students and researchers, and provide for a comprehensive evaluation of cave resources and measures needed for their protection.

(c) Emphasis

The program¹ shall be directed primarily toward lands managed by the National Park Service, but the Secretary of the Interior may enter into cooperative agreements with other agencies or entities as may be appropriate to carry out the purposes of this section.

(Pub. L. 101-578, title II, §202, Nov. 15, 1990, 104 Stat. 2859.)

REFERENCES IN TEXT

This section, referred to in subsecs. (a) and (c), was in the original "this title" meaning title II of Pub. L. 101-578, Nov. 15, 1990, 104 Stat. 2859, which enacted this section and provisions set out as notes below. For complete classification of title II to the Code, see Tables.

CODIFICATION

Section was not enacted as part of the Federal Cave Resources Protection Act of 1988 which comprises this chapter.

CONGRESSIONAL FINDINGS

Section 201 of Pub. L. 101-578 provided that: "The Congress makes the following findings:

"(1) The World's most exposed fossil reef, Capitan Reef, in southern New Mexico that includes Carlsbad Caverns, contains over 300 caves, including 75 identified caves in Carlsbad Caverns National Park and 22 caves in Guadalupe Mountains National Park.

"(2) Recent explorations of Lechuguilla Cave at Carlsbad Caverns National Park have provided much new information about the wonders of this cave including the fact that it is the second deepest cave in the United States and contains outstanding world-class cave features such as gypsum crystal chandeliers and gypsum flowers.

"(3) The Lechuguilla Cave has been described by cave researchers as possibly the finest cave in America.

"(4) The interest and excitement of cave researchers throughout the world have been focused on Carlsbad Caverns National Park.

"(5) Cave researchers could use this research institute as an operational base for study of caves in other regions and as a focal point for storage of data on cave geology and speleology.

"(6) The Congress, with the passage of Public Law 100-691, the Federal Cave Resources Protection Act of 1988 [16 U.S.C. 4301 et seq.], recognized the significance of cave resources on Federal lands and established the policy that Federal lands be managed in a manner which protects and maintains, to the extent practicable, significant cave resources."

CAVE RESEARCH INSTITUTE STUDY

Section 203 of Pub. L. 101-578 directed Secretary of the Interior, not later than one year after Nov. 15, 1990, to prepare and transmit to Congress a study on the feasibility of establishing a Cave Research Institute.

AUTHORIZATION OF APPROPRIATIONS

Section 204 of title II of Pub. L. 101-578 provided that: "There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title [enacting this section and provisions set out as notes above]."

CHAPTER 64—NORTH AMERICAN WETLANDS CONSERVATION

Sec.

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¹ So in original. Probably should be capitalized.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3741 of this title.

§ 4401. Findings and statement of purpose

(a) Findings

The Congress finds and declares that—

(1) the maintenance of healthy populations of migratory birds in North America is dependent on the protection, restoration, and management of wetland ecosystems and other habitats in Canada, as well as in the United States and Mexico;

(2) wetland ecosystems provide essential and significant habitat for fish, shellfish, and other wildlife of commercial, recreational, scientific, and aesthetic values;

(3) almost 35 per centum of all rare, threatened, and endangered species of animals are dependent on wetland ecosystems;

(4) wetland ecosystems provide substantial flood and storm control values and can obviate the need for expensive manmade control measures;

(5) wetland ecosystems make a significant contribution to water availability and quality, recharging ground water, filtering surface runoff, and providing waste treatment;

(6) wetland ecosystems provide aquatic areas important for recreational and aesthetic purposes;

(7) more than 50 per centum of the original wetlands in the United States alone have been lost;

(8) wetlands destruction, loss of nesting cover, and degradation of migration and wintering habitat have contributed to long-term downward trends in populations of migratory bird species such as pintails, American bitterns, and black ducks;

(9) the migratory bird treaty obligations of the United States with Canada, Mexico, and other countries require protection of wetlands that are used by migratory birds for breeding, wintering, or migration and are needed to achieve and to maintain optimum population levels, distributions, and patterns of migration;

(10) the 1988 amendments to the Fish and Wildlife Conservation Act of 1980 require the Secretary of the Interior to identify conservation measures to assure that nongame migratory bird species do not reach the point at which measures of the Endangered Species Act [16 U.S.C. 1531 et seq.] are necessary;

(11) protection of migratory birds and their habitats requires long-term planning and the close cooperation and coordination of management activities by Canada, Mexico, and the United States within the framework of the 1916 and 1936 Migratory Bird Conventions and the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(12) the North American Waterfowl Management Plan, signed in 1986 by the Minister of Environment for Canada and the Secretary of the Interior for the United States, provides a framework for maintaining and restoring an adequate habitat base to ensure perpetuation of populations of North American waterfowl and other migratory bird species;

(13) a tripartite agreement signed in March 1988, by the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service, and the Director of the United States Fish and Wildlife Service, provides for expanded cooperative efforts in Mexico to conserve wetlands for migratory birds that spend the winter there;

(14) the long-term conservation of migratory birds and habitat for these species will require the coordinated action of governments, private organizations, landowners, and other citizens; and

(15) the treaty obligations of the United States under the Convention on Wetlands of International Importance especially as waterfowl habitat requires promotion of conservation and wise use of wetlands.

(b) Purpose

The purposes of this chapter are to encourage partnership among public agencies and other interests—

(1) to protect, enhance, restore, and manage an appropriate distribution and diversity of wetland ecosystems and other habitats for migratory birds and other fish and wildlife in North America;

(2) to maintain current or improved distributions of migratory bird populations; and

(3) to sustain an abundance of waterfowl and other migratory birds consistent with the goals of the North American Waterfowl Management Plan and the international obligations contained in the migratory bird treaties and conventions and other agreements with Canada, Mexico, and other countries.

(Pub. L. 101-233, § 2, Dec. 13, 1989, 103 Stat. 1968.)

REFERENCES IN TEXT

The Fish and Wildlife Conservation Act of 1980, referred to in subsec. (a)(10), is Pub. L. 96-366, Sept. 29, 1980, 94 Stat. 1322, as amended, which is classified generally to chapter 49 (§2901 et seq.) of this title. In 1988, section 2912 of that chapter was enacted and section 2910 of that chapter was amended by Pub. L. 100-653, title VIII, Nov. 14, 1988, 102 Stat. 3833. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

The Endangered Species Act, referred to in subsec. (a)(10), probably means the Endangered Species Act of 1973, Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 101-233, Dec. 13, 1989, 103 Stat. 1968, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-375, §1, Oct. 19, 1994, 108 Stat. 3494, provided that: “This Act [enacting section 4414 of this title and amending sections 3742 to 3744, 3955, 4406, 4407, 4409, and 4410 of this title] may be cited as the ‘North American Wetlands Conservation Act Amendments of 1994.’”

SHORT TITLE

Section 1 of Pub. L. 101-233 provided that: “This Act [enacting this chapter, amending sections 669b, 669c, 703, 715a, 2912, and 3931 of this title, enacting provisions set out as a note under section 669b of this title, and amending provisions set out as a note under section 668dd of this title] may be cited as the ‘North American Wetlands Conservation Act.’”

§ 4402. Definitions

For the purposes of this chapter:

(1) The term “Agreement” means the Tripartite Agreement signed in March 1988, by the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service, and the Director of the United States Fish and Wildlife Service.

(2) The term “appropriate Committees” means the Committee on Environment and Public Works of the United States Senate and the Committee on Merchant Marine and Fisheries of the United States House of Representatives.

(3) The term “flyway” means the four administrative units used by the United States Fish and Wildlife Service and the States in the management of waterfowl populations.

(4) The term “Migratory Bird Conservation Commission” means that commission established by section 715a of this title.

(5) The term “migratory birds” means all wild birds native to North America that are in an unconfined state and that are protected under the Migratory Bird Treaty Act [16 U.S.C. 703 et seq.], including ducks, geese, and swans of the family Anatidae, species listed as threatened or endangered under the Endangered Species Act (16 U.S.C. 1531 et seq.), and species defined as nongame under the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901-2912).

(6) The term “Plan” means the North American Waterfowl Management Plan signed by the Minister of the Environment for Canada and the Secretary of the Interior for the United States in May 1986.

(7) The term “Secretary” means the Secretary of the Interior.

(8) The term “State” means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(9) The term “wetlands conservation project” means—

(A) the obtaining of a real property interest in lands or waters, including water rights, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon;

(B) the restoration, management, or enhancement of wetland ecosystems and other habitat for migratory birds and other fish and wildlife species if such restoration, management, or enhancement is conducted on lands and waters that are administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon; and

(C) in the case of projects undertaken in Mexico, includes technical training and development of infrastructure necessary for the conservation and management of wetlands and studies on the sustainable use of wetland resources.

(Pub. L. 101-233, § 3, Dec. 13, 1989, 103 Stat. 1969.)

REFERENCES IN TEXT

The Migratory Bird Treaty Act, referred to in par. (5), 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.

The Endangered Species Act, referred to in par. (5), probably means the Endangered Species Act of 1973, Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Fish and Wildlife Conservation Act of 1980, referred to in par. (5), is Pub. L. 96-366, Sept. 29, 1980, 94

Stat. 1322, as amended, which is classified generally to chapter 49 (§2901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE
AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on Resources of House of Representatives in case of provisions relating to fisheries, wildlife, international fishing agreements, marine affairs (including coastal zone management) except for measures relating to oil and other pollution of navigable waters, or oceanography by section 1(b)(3) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

§ 4403. Establishment of North American Wetlands Conservation Council

(a) Council membership

(1) There shall be established a North American Wetlands Conservation Council (hereinafter in this chapter referred to as the "Council") which shall consist of nine members who may not receive compensation as members of the Council. Of the Council members—

(A) one shall be the Director of the United States Fish and Wildlife Service, who shall be the responsible Federal official for ensuring Council compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) one shall be the Secretary of the Board of the National Fish and Wildlife Foundation appointed pursuant to section 3702(2)(B)¹ of this title;

(C) four shall be individuals who shall be appointed by the Secretary, who shall reside in different flyways and who shall each be a Director of the State fish and wildlife agency; and

(D) three shall be individuals who shall be appointed by the Secretary and who shall each represent a different charitable and nonprofit organization which is actively participating in carrying out wetlands conservation projects under this chapter, the Plan, or the Agreement.

The provisions of Public Law 92-463, as amended, shall not apply to the Council.

(2) The Secretary shall appoint an alternate member of the Council who shall be knowledgeable and experienced in matters relating to fish, wildlife, and wetlands conservation and who shall perform the duties of a Council member appointed under subsection (a)(1)(C) or subsection (a)(1)(D) of this section—

(A) until a vacancy referred to in subsection (b)(4) of this section is filled; or

(B) in the event of the anticipated absence of such a member from any meeting of the Council.

(b) Appointment and terms

(1) Except as provided in paragraphs (2) and (3), the term of office of a member of the Council

appointed under subsections (a)(1)(C) and (a)(1)(D) of this section is three years.

(2) Of the Council members first appointed under subsection (a)(1)(C) of this section after December 13, 1989, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and two shall be appointed for a term of three years.

(3) Of the Council members first appointed under subsection (a)(1)(D) of this section after December 13, 1989, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years.

(4) Whenever a vacancy occurs among members of the Council appointed under subsection (a)(1)(C) or subsection (a)(1)(D) of this section, the Secretary shall appoint an individual in accordance with either such subsection to fill that vacancy for the remainder of the applicable term.

(c) Ex officio Council members

The Secretary is authorized and encouraged to include as ex officio nonvoting members of the Commission² representatives of—

(1) the Federal, provincial, territorial, or State government agencies of Canada and Mexico, which are participating actively in carrying out one or more wetlands conservation projects under this chapter, the Plan, or the Agreement;

(2) the Environmental Protection Agency and other appropriate Federal agencies, in addition to the United States Fish and Wildlife Service, which are participating actively in carrying out one or more wetlands conservation projects under this chapter, the Plan, or the Agreement; and

(3) nonprofit charitable organizations and Native American interests, including tribal organizations, which are participating actively in one or more wetlands conservation projects under this chapter, the Plan, or the Agreement.

(d) Chairman

The Chairman shall be elected by the Council from its members for a three-year term, except that the first elected Chairman may serve a term of less than three years.

(e) Quorum

A majority of the current membership of the Council shall constitute a quorum for the transaction of business.

(f) Meetings

The Council shall meet at the call of the Chairman at least once a year. Council meetings shall be open to the public, and the Chairman shall take appropriate steps to provide adequate notice to the public of the time and place of such meetings. If a Council member appointed under subsection (a)(1)(C) or (a)(1)(D) of this section misses three consecutive regularly scheduled meetings, the Secretary may remove that individual in accordance with subsection (b)(4) of this section.

¹ So in original. Probably should be section "3702(g)(2)(B)".

² So in original. Probably should be "Council".

(g) Coordinator

The Director of the United States Fish and Wildlife Service shall appoint an individual who shall serve at the pleasure of the Director and—

- (1) who shall be educated and experienced in the principles of fish, wildlife, and wetlands conservation;
- (2) who shall be responsible, with assistance from the United States Fish and Wildlife Service, for facilitating consideration of wetlands conservation projects by the Council and otherwise assisting the Council in carrying out its responsibilities under this chapter; and
- (3) who shall be compensated with the funds available under section 4407(a)(1) of this title for administering this chapter.

(Pub. L. 101-233, § 4, Dec. 13, 1989, 103 Stat. 1970; Pub. L. 101-593, title I, § 112(1)-(3), Nov. 16, 1990, 104 Stat. 2962.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(1)(A), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Public Law 92-463, referred to in subsec. (a)(1), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, known as the Federal Advisory Committee Act, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-593, § 112(2), inserted sentence at end relating to Public Law 92-463.

Subsec. (a)(1)(A). Pub. L. 101-593, § 112(1), which directed that “, who shall be the responsible Federal official for ensuring Council compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)” be inserted after “Service” and before the period, was executed by making the insertion after “Service” and before the semicolon as the probable intent of Congress.

Subsec. (f). Pub. L. 101-593, § 112(3), inserted before period at end of first sentence “, and the Chairman shall take appropriate steps to provide adequate notice to the public of the time and place of such meetings”.

§ 4404. Approval of wetlands conservation projects**(a) Consideration by Council**

The Council shall recommend wetlands conservation projects to the Migratory Bird Conservation Commission based on consideration of—

- (1) the extent to which the wetlands conservation project fulfills the purposes of this chapter, the Plan, or the Agreement;
- (2) the availability of sufficient non-Federal moneys to carry out any wetlands conservation project and to match Federal contributions in accordance with the requirements of section 4407(b) of this title;
- (3) the extent to which any wetlands conservation project represents a partnership among public agencies and private entities;
- (4) the consistency of any wetlands conservation project in the United States with the National Wetlands Priority Conservation Plan developed under section 3921 of this title;

(5) the extent to which any wetlands conservation project would aid the conservation of migratory nongame birds, other fish and wildlife and species that are listed, or are candidates to be listed, as threatened and endangered under the Endangered Species Act (16 U.S.C. 1531 et seq.);

(6) the substantiality of the character and design of the wetlands conservation project; and

(7) the recommendations of any partnerships among public agencies and private entities in Canada, Mexico, or the United States which are participating actively in carrying out one or more wetlands conservation projects under this chapter, the Plan, or the Agreement.

(b) Recommendations to Migratory Bird Conservation Commission

The Council shall submit to the Migratory Bird Conservation Commission by January 1 of each year, a description, including estimated costs, of the wetlands conservation projects which the Council has considered under subsection (a) of this section and which it recommends, in order of priority, that the Migratory Bird Conservation Commission approve for Federal funding under this chapter and section 669b(b) of this title. Solely for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), recommendations by the Council for carrying out wetlands conservation projects under section 4405(a) of this title shall be considered Federal actions requiring the preparation of environmental assessments or, where appropriate, environmental impact statements.

(c) Council procedures

The Council shall establish practices and procedures for the carrying out of its functions under subsections (a) and (b) of this section. The procedures shall include requirements that—

- (1) a quorum of the Council must be present before any business may be transacted; and
- (2) no recommendations referred to in subsection (b) of this section may be adopted by the Council except by the vote of two-thirds of all members present and voting.

(d) Council representation on Migratory Bird Conservation Commission

The Chairman of the Council shall select one Council member of the¹ United States citizenship to serve with the Chairman as ex officio members of the Migratory Bird Conservation Commission for the purposes of considering and voting upon wetlands conservation projects recommended by the Council.

(e) Approval of Council recommendations by Migratory Bird Conservation Commission

The Migratory Bird Conservation Commission, along with the two members of the Council referred to in subsection (d) of this section, shall approve, reject or reorder the priority of any wetlands conservation projects recommended by the Council based on, to the greatest extent practicable, the criteria of subsection (a) of this section. If the Migratory Bird Conservation

¹ So in original.

Commission approves any wetlands conservation project, Federal funding shall be made available under this chapter and section 669b(b) of this title. If the Migratory Bird Conservation Commission rejects or reorders the priority of any wetlands conservation project recommended by the Council, the Migratory Bird Conservation Commission shall provide the Council and the appropriate Committees with a written statement explaining its rationale for the rejection or the priority modification.

(f) Notification of appropriate Committees

The Migratory Bird Conservation Commission shall submit annually to the appropriate Committees a report including a list and description of the wetlands conservation projects approved by the Migratory Bird Conservation Commission for Federal funding under subsection (d) of this section in order of priority; the amounts and sources of Federal and non-Federal funding for such projects; a justification for the approval of such projects and the order of priority for funding such projects; a list and description of the wetlands conservation projects which the Council recommended, in order of priority that the Migratory Bird Conservation Commission approve for Federal funding; and a justification for any rejection or re-ordering of the priority of wetlands conservation projects recommended by the Council that was based on factors other than the criteria of subsection (a) of this section.

(Pub. L. 101-233, § 5, Dec. 13, 1989, 103 Stat. 1972; Pub. L. 101-593, title I, § 112(4), Nov. 16, 1990, 104 Stat. 2962.)

REFERENCES IN TEXT

The Endangered Species Act, referred to in subsec. (a)(5), probably means the Endangered Species Act of 1973, Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-593 inserted at end “Solely for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), recommendations by the Council for carrying out wetlands conservation projects under section 4405(a) of this title shall be considered Federal actions requiring the preparation of environmental assessments or, where appropriate, environmental impact statements.”

§ 4405. Conditions relating to wetlands conservation projects

(a) Projects in United States

(1) Subject to the allocation requirements of section 4407(a)(2) of this title and the limitations on Federal contributions under section 4407(b) of this title, the Secretary shall assist in carrying out wetlands conservation projects in the United States, which have been approved by the Migratory Bird Conservation Commission, with the Federal funds made available under this chapter and section 669b(b) of this title.

(2) Except as provided in paragraph (3), any lands or waters or interests therein acquired in whole or in part by the Secretary with the Federal funds made available under this chapter and section 669b(b) of this title to carry out wetlands conservation projects shall be included in the National Wildlife Refuge System.

(3) In lieu of including in the National Wildlife Refuge System any lands or waters or interests therein acquired under this chapter, the Secretary may, with the concurrence of the Migratory Bird Conservation Commission, grant or otherwise provide the Federal funds made available under this chapter and section 669b(b) of this title or convey any real property interest acquired in whole or in part with such funds without cost to a State or to another public agency or other entity upon a finding by the Secretary that the real property interests should not be included in the National Wildlife Refuge System: *Provided*, That any 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 shall not convey any such interest to a State, another public agency or other entity unless the Secretary determines that such State, agency or other entity is committed to undertake the management of the property being transferred in accordance with the objectives of this chapter, and the deed or other instrument of transfer contains provisions for the reversion of title to the property to the United States if such State, agency or other entity fails to manage the property in accordance with the objectives of this chapter. Any real property interest conveyed pursuant to this paragraph shall be subject to 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.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4404, 4407 of this title.

§ 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 \$20,000,000 for each of fiscal years 1995 and 1996 and \$30,000,000 for each of fiscal years 1997 and 1998.

(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.)

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

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 50 per centum and not more than 70 per centum thereof) 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 per centum 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 30 per centum and not more than 50 per centum thereof), 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) Federal contribution for projects; non-Federal share

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. 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.

(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.)

AMENDMENTS

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.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 669b, 3955, 4403, 4404, 4405, 4406 of this title.

§ 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 hemisphere¹ pursuant to section 4413² 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.

(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.)

REFERENCES IN TEXT

Section 4413 of this title, referred to in par. (1)(C), was in the original “section 17 of this Act”, meaning section 17 of Pub. L. 101-233, and was translated as reading section 16(a) of Pub. L. 101-233 as the probable intent of Congress because section 16(a) of Pub. L. 101-233 relates to agreements with nations in the Western Hemisphere.

AMENDMENTS

1994—Par. (1)(D). Pub. L. 103-375 added subpar. (D).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4410 of this title.

§ 4410. Revisions to Plan

The Secretary shall, in 1998 and at five-year intervals thereafter, undertake with the appropriate officials in Canada and Mexico to revise the goals and other elements of the Plan in accordance with the information required under section 4409 of this title and with the other provisions of this chapter.

¹ So in original. Probably should be “Western Hemisphere”.

² See References in Text note below.

(Pub. L. 101-233, § 11, Dec. 13, 1989, 103 Stat. 1976; Pub. L. 103-375, § 2(c), Oct. 19, 1994, 108 Stat. 3494.)

AMENDMENTS

1994—Pub. L. 103-375 substituted “1998” for “1991”, inserted “and Mexico” after “Canada”, and struck out at end “The Secretary shall invite and encourage the appropriate officials in Mexico to participate in any revisions of the Plan.”

§ 4411. Relationship to other authorities

(a) Acquisition of lands and waters

Nothing in this chapter affects, alters, or modifies the Secretary’s authorities, responsibilities, obligations, or powers to acquire lands or waters or interests therein under any other statute.

(b) Mitigation

The Federal funds made available under this chapter and section 669b(b) of this title may not be used for fish and wildlife mitigation purposes under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) or the Water Resources Development Act of 1986, Public Law 99-662 (1986), 100 Stat. 4235.

(Pub. L. 101-233, § 12, Dec. 13, 1989, 103 Stat. 1977.)

REFERENCES IN TEXT

The Fish and Wildlife Coordination Act, referred to in subsec. (b), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, 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.

The Water Resources Development Act of 1986, referred to in subsec. (b), is Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4082, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of Title 33, Navigation and Navigable Waters, and Tables.

§ 4412. Limitation on assessments against Migratory Bird Conservation Fund

Notwithstanding any other provision of law, only those personnel and administrative costs directly related to acquisition of real property shall be levied against the Migratory Bird Conservation Account.¹

(Pub. L. 101-233, § 14, Dec. 13, 1989, 103 Stat. 1977.)

§ 4413. Other agreements

The Secretary shall undertake with the appropriate officials of nations in the western hemisphere¹ to establish agreements, modeled after the Plan or the Agreement, for the protection of migratory birds identified in section 2912(a)(5) of this title. When any such agreements are reached, the Secretary shall make recommendations to the appropriate Committees on legislation necessary to implement the agreements.

(Pub. L. 101-233, § 16(a), Dec. 13, 1989, 103 Stat. 1977.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4409 of this title.

¹ So in original. Probably should be “Fund”. See section 718d of this title.

² So in original. Probably should be “Western Hemisphere”.

§ 4414. Assessment of progress in wetlands conservation

Not later than January 31, 1996, the Secretary, in cooperation with the Council, to further the purposes of the chapter shall—

- (1) develop and implement a strategy to assist in the implementation of this Act in conserving the full complement of North American wetlands systems and species dependent on those systems, that incorporates information existing on the date of the issuance of the strategy in final form on types of wetlands habitats and species dependent on the habitats; and
- (2) develop and implement procedures to monitor and evaluate the effectiveness of wetlands conservation projects completed under this chapter.

(Pub. L. 101-233, § 19, as added Pub. L. 103-375, § 3, Oct. 19, 1994, 108 Stat. 3494.)

CHAPTER 65—INTERNATIONAL FORESTRY COOPERATION

Sec.	
4501.	Forestry and related natural resource assistance. <ol style="list-style-type: none"> (a) Focus of activities. (b) Authority for international forestry activities. (c) Eligible countries.
4502.	Tropical deforestation assessment and assistance.
4502a.	Tropical forestry research and assistance. <ol style="list-style-type: none"> (a) Assistance. (b) Form of assistance. (c) Definitions.
4503.	Institute of Tropical Forestry in Puerto Rico. <ol style="list-style-type: none"> (a) Expansion. (b) Tropical forestry plans.
4503a.	Institute of Pacific Islands Forestry. <ol style="list-style-type: none"> (a) Expansion. (b) Tropical forestry plan.
4503b.	Hawaii Experimental Tropical Forest. <ol style="list-style-type: none"> (a) Definitions. (b) Establishment and management. (c) Delineation of location of Forest. (d) Authorities of Secretary.
4503c.	Annual report on Institutes of Tropical Forestry.
4503d.	Definitions.
4504.	Administrative provisions. <ol style="list-style-type: none"> (a) Coordination of activities. (b) Assistance.
4505.	Authorization of appropriations.

§ 4501. Forestry and related natural resource assistance

(a) Focus of activities

To achieve the maximum impact from activities undertaken under the authority of this chapter, the Secretary shall focus such activities on the key countries which could have a substantial impact on emissions of greenhouse gases related to global warming.

(b) Authority for international forestry activities

In support of forestry and related natural resource activities outside of the United States and its territories and possessions, the Secretary of Agriculture may—

- (1) provide assistance that promotes sustainable development and global environmental stability, including assistance for—

- (A) conservation and sustainable management of forest land;
- (B) forest plantation technology and tree improvement;
- (C) rehabilitation of cutover lands, eroded watersheds, and areas damaged by wildfires or other natural disasters;
- (D) prevention and control of insects, diseases, and other damaging agents;
- (E) preparedness planning, training, and operational assistance to combat natural disasters;
- (F) more complete utilization of forest products leading to resource conservation;
- (G) range protection and enhancement; and
- (H) wildlife and fisheries habitat protection and improvement;

(2) share technical, managerial, extension, and administrative skills related to public and private natural resource administration;

(3) provide education and training opportunities to promote the transfer and utilization of scientific information and technologies;

(4) engage in scientific exchange and cooperative research with foreign governmental, educational, technical and research institutions; and

(5) cooperate with domestic and international organizations that further international programs for the management and protection of forests, rangelands, wildlife and fisheries, and related natural resource activities.

(c) Eligible countries

The Secretary shall undertake the activities described in subsection (b) of this section, in countries that receive assistance from the Agency for International Development only at the request, or with the concurrence, of the Administrator of the Agency for International Development.

(Pub. L. 101-513, title VI, § 602, Nov. 5, 1990, 104 Stat. 2070; Pub. L. 102-574, § 2(b)(1), Oct. 29, 1992, 106 Stat. 4596.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original “this title”, meaning title VI of Pub. L. 101-513, Nov. 5, 1990, 104 Stat. 2070, which is classified principally to this chapter. For complete classification of title VI to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-574 struck out “(hereinafter referred to in this chapter as the Secretary)” after “Agriculture” in introductory provisions.

SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102-574 provided that: “This Act [enacting sections 4502a and 4503a to 4503d of this title, amending this section and section 4503 of this title, and enacting provisions set out as notes under sections 4502a and 4503a of this title] may be cited as the ‘Hawaii Tropical Forest Recovery Act’.”

SHORT TITLE

Section 601 of title VI of Pub. L. 101-513 provided that: “This title [enacting this chapter and amending sections 1641, 1643, 2101, and 2109 of this title] may be