Program $250,000 for each of the fiscal years 1995 through 2000.

(Pub. L. 103–340, § 5, Oct. 6, 1994, 108 Stat. 3120.)

CHAPTER 8—UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

Sec.
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§ 721. Short title; "person" defined

This chapter may be cited as ''The Upper Mississippi River Wild Life and Fish Refuge Act.'' The term ''person'' as used therein includes an individual, partnership, association, or corporation.

(June 7, 1924, ch. 346, §§ 1, 12, 43 Stat. 650, 652.)

CODIFICATION

Section is a combination provision, the first sentence being derived from section 1 and the last from section 12, of act June 7, 1924.

§ 722. Acquisition of lands and water

The Secretary of the Interior is authorized to acquire, by purchase, gift, or lease, such areas of land, or of land and water, situated between Rock Island, Illinois, and Wabasha, Minnesota, on either side of or upon islands in the Mississippi River which are not used for agricultural purposes, as he determines suitable for the purposes of this chapter, and any such area when acquired shall become a part of the Upper Mississippi River Wild Life and Fish Refuge (referred to in this chapter as the ''refuge'').

(June 7, 1924, ch. 346, §§ 2, 3, 43 Stat. 650; June 18, 1934, ch. 602, 48 Stat. 1015; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

Section is a combination provision, the latter portion beginning with the words ''and any such area,'' being from section 3, and the remainder of the section from section 2 of act June 7, 1924.

AMENDMENTS

1934—Act June 18, 1934, struck out ''which are subject to overflow by such river'' after ''Mississippi River''.

TRANSFER OF FUNCTIONS

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.

ADDITIONAL LANDS

Act June 13, 1944, ch. 243, 58 Stat. 274, provided for the acquisition of certain tracts of land situated in Wabasha County, Minnesota.

§ 723. Purposes of refuge; regulations by Secretary of the Interior

The refuge shall be established and maintained (a) as a refuge and breeding place for migratory birds included in the terms of the convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and (b) to such extent as the Secretary of the Interior may by regulations prescribe, as a refuge and breeding place for other wild birds, game animals, fur-bearing animals, and for the conservation of wild flowers and aquatic plants, and (c) to such extent as the Secretary of the Interior may by regulations prescribe as a refuge and breeding place for fish and other aquatic animal life.

(June 7, 1924, ch. 346, § 3, 43 Stat. 650; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

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 into one agency in Department of the Interior to be known as Fish and Wildlife Service.

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-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.

§ 724. Consent of States to acquisition; existing rights-of-way, easements, etc.

(a) No such area shall be acquired by the Secretary of the Interior until the legislature of each State in which is situated any part of the areas to be acquired under this chapter has consented to the acquisition of such part by the United States for the purposes of this chapter, and, except in the case of a lease, no payment shall be made by the United States for any such area until title thereto is satisfactory to the Attorney General and is vested in the United States.

(b) The existence of a right of way, easement, or other reservation or exception in respect of such area shall not be a bar to its acquisition (1) if the Secretary of the Interior determines that any such reservation or exception will in no manner interfere with the use of the area for the purposes of this chapter, or (2) if in the deed or other conveyance it is stipulated that any reservation or exception in respect of such area, in favor of the person from whom the United States receives title, shall be subject to regulations prescribed under authority of this chapter.

(June 7, 1924, ch. 346, § 4, 43 Stat. 650; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

§ 725. Regulations, etc., by Secretary of the Interior

Except where it is specifically provided otherwise, the Secretary of the Interior shall prescribe such regulations, exercise such functions, and perform such duties as may be necessary to carry out the purposes of this chapter.

(June 7, 1924, ch. 346, § 5, 43 Stat. 651; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

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

Transfer of functions of Secretary of Agriculture and Secretary of Commerce to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

§ 726. Acts prohibited in refuge; commercial fishing

No person shall, except in accordance with regulations prescribed by the Secretary of the Interior in respect of wild birds, game animals, fur-bearing animals, wild flowers, and aquatic plants, or in respect of fish and other aquatic-animal life—

(a) Enter the refuge for any purpose; or

(b) Disturb, injure, kill, or remove, or attempt to disturb, injure, kill, or remove any wild bird, game animal, fur-bearing animal, fish, or other aquatic-animal life, on the refuge; or

(c) Remove from the refuge, or injure or destroy thereon any flower, plant, tree, or other natural growth, or the nest or egg of any wild bird; or

(d) Injure or destroy any notice, sign board, fence, building, or other property of the United States thereon.

Commercial fishing may, however, be conducted in the waters of this refuge under regulation by the Secretary of the Interior.

(June 7, 1924, ch. 346, §§ 6, 7, 43 Stat. 651; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

Section is a combination of sections 6 and 7 of act June 7, 1924, the last sentence only being from section 7.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior under this chapter to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, see Transfer of Functions note set out under section 725 of this title.

Transfer of functions of Secretary of Agriculture and Secretary of Commerce to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

§ 727. Powers of employees of Department of the Interior

(a) Arrest; execution of warrants; searches

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this chapter (1) shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this chapter or of any regulation made pursuant to this chapter, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, (2) shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this chapter or regulations made pursuant thereto, and (3) shall have authority, with a search warrant issued by an officer or court of competent jurisdiction to make a search in accordance with the terms of such warrant. Any judge of a court established under the laws of the United States, or any United States magistrate judge may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

(b) Seizures

All birds, animals, fish, or parts thereof captured, injured, or killed, and all flowers, plants, trees, and other natural growths, and nests and eggs of birds removed, and all implements or paraphernalia, including guns, fishing equipment, and boats used or attempted to be used contrary to the provisions of this chapter or any regulations made pursuant thereto, shall, when found by such employee or by any marshal or deputy marshal, be summarily seized by him and placed in the custody of such persons as the Secretary of the Interior may by regulation prescribe.

(c) Reports of seizures; forfeiture and libel proceedings

A report of the seizure shall be made to the United States attorney for the judicial district in which the seizure is made, for forfeiture either (1) upon conviction of the offender under section 730 of this title, or (2) by proceedings by libel in rem. Such libel proceedings shall conform as near as may be to civil suits in admiralty, except that either party may demand trial by jury upon any issue of fact when the value in controversy exceeds $20. In case of a jury trial the verdict of the jury shall have the same effect as the finding of the court upon the facts. Libel proceedings shall be at the suit and in the name of the United States. If such forfeiture proceedings are not instituted within a rea-

sonable time, the United States attorney shall give notice thereof, and the custodian shall thereupon release the articles seized.

(June 7, 1924, ch. 346, § 8, 43 Stat. 651; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Oct. 17, 1968, Pub. L. 90–578, title IV, § 402(b)(2), 82 Stat. 1118; Dec. 1, 1990, Pub. L. 101–650, title III, § 321, 104 Stat. 5117.)

CHANGE OF NAME

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

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior under this chapter to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, see Transfer of Functions note set out under section 725 of this title.

Transfer of functions of Secretary of Agriculture and Secretary of Commerce to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Admiralty and maritime rules of practice (which included libel procedures) were superseded, and civil and admiralty procedures in United States district courts were unified, effective July 1, 1966, see rule 1 and Supplemental Rules for Certain Admiralty and Maritime Claims, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 728. Expenditures

The Secretary of the Interior is authorized to make such expenditures for construction, equipment, maintenance, repairs, and improvements, including expenditures for personal services at the seat of government and elsewhere, as may be necessary to execute the functions imposed upon him by this chapter and as may be provided for by Congress from time to time.

(June 7, 1924, ch. 346, § 9, 43 Stat. 652; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

As originally enacted, this section contained an additional paragraph which appropriated a sum half of which was to be available, until expended, for the expenditures mentioned herein.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture and Secretary of Commerce to Secretary of the Interior, by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

§ 729. Price per acre

The Secretary of the Interior shall not pay for any land or land and water a price which shall exceed an average cost of $10 per acre: *Provided*, That this provision shall not apply to any land or land and water prior to May 12, 1928, acquired or contracted for under the provisions of this chapter.

(June 7, 1924, ch. 346, § 10, 43 Stat. 652; Mar. 4, 1925, ch. 558, 43 Stat. 1354; May 12, 1928, ch. 534, 45 Stat. 502; 1939 Reorg. Plan No. II, § 4 (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

CODIFICATION

Provisions of this section, which authorized an appropriation of $1,500,000 for the acquisition of authorized areas and for all necessary expenses thereto, were omitted. The text set out above constituted the first and second provisos to the omitted provisions.

AMENDMENTS

1928—Act May 12, 1928, substituted "which shall exceed an average cost of $10 per acre" for "which when added to the price of land or land and water theretofore purchased, shall exceed an average cost of $5 per acre", and inserted proviso making the provision of this section inapplicable to any land or land and water prior to May 12, 1928.

1925—Act Mar. 4, 1925, substituted proviso for restriction on availability of money for acquisition of areas.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 723 of this title.

§ 730. Violations of law or regulations; punishment

Any person who shall violate or fail to comply with any provision of or any regulation made pursuant to this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $500 or be imprisoned not more than six months, or both.

(June 7, 1924, ch. 346, § 11, 43 Stat. 652.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 727 of this title.

§ 731. Effect on other laws

Nothing in this chapter shall be construed as exempting any portion of the Mississippi River from the provisions of Federal laws for the improvement, preservation, and protection of navigable waters, nor as authorizing any interference with the operations of the Department of the Army in carrying out any project now or hereafter adopted for the improvement of said river.

(June 7, 1924, ch. 346, § 13, 43 Stat. 652; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE IN 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.

CHAPTER 9—FISH AND WILDLIFE SERVICE

Sec.
741, 742. Repealed or Omitted.
742a. Declaration of policy.
742b. United States Fish and Wildlife Service.
(a) Assistant Secretary for Fish and Wildlife.