§ 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.


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 3912(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 726d(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, 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, 34 Stat. 1222, 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.

SIC. 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 plans;

(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.

SIC. 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.

SIC. 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.

SIC. 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 projects 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.

References in Text

The date of enactment of the Fish and Wildlife Coordination Act, referred to in subsec. (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” after 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 460–12 to 460–21 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 in connection with the management program: Provided, That nothing in this section shall be construed as affecting 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 the words “conservation, maintenance, and management” 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, provided that the provisions 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-
properties 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.


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(b) of this title", before "whenever thereafter", 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.

§ 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.


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, in-
cluding 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 pri-
ivate agencies, individuals, organizations, or enter-
prises.

Plan No. III, §43, eff. June 30, 1940, 5 F.R. 2108, 54

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 18(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 (in-
cluding locks, dams, and pools) in the Mis-
issippi River between Rock Island, Illinois, and
Minneapolis, Minnesota, administered by the
United States Corps of Engineers of the Depart-
ment 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 Govern-
ment, 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 oper-
ate and maintain pool levels as though naviga-
tion 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 economi-
cal administration of areas made available to
the Secretary of the Interior under said sec-
tions, and the employment in the city of Wash-
ington and elsewhere of such persons and means
as the Secretary of the Interior may deem nec-
essary 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 regu-
lamation promulgated in accordance with sections
661 to 666c of this title shall be guilty of a mis-
demeanor 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 sec-
tions 661 to 666c of this title. For complete classifica-
tion 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 Author-
ity

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

(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 there-
for 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 In-
terior under the terms of this section and sec-
tion 666d of this title, if located within or adja-
cent to an existing wildlife refuge or reserv-
ation, immediately shall become a part of such
refuge or reservation and shall be administered
under the laws and regulations applicable there-
to, 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.


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.

CHARGE OF NAME

Department of War redesignated 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.
§ 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.

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

§ 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.

§ 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.

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.

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 said sections of 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, lawfully taken prior to the addition to this subchapter of the provisions relating to preservation of the golden eagle.

(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.

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. 23, 1972. 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. 92–355 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 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
an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

LEGISLATIVE INTENT

Enacting clause of act June 8, 1940, provided: “Whereas the Continental Congress in 1782 adopted the bald eagle as the national symbol; and whereas the bald eagle thus became the symbolic representation of a new nation under a new government in a new world; and whereas by that act of Congress and by tradition and custom during the life of this Nation, the bald eagle is no longer a mere bird of biological interest but a symbol of the American ideals of freedom; and whereas the bald eagle is now threatened with extinction. Therefore “Be it enacted * * *", etc.

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

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


AMENDMENTS

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

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

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

POLICY CONCERNING DISTRIBUTION OF EAGLE FEATHERS FOR NATIVE AMERICAN RELIGIOUS PURPOSES

Memorandum of President of the United States, Apr. 29, 1994, 59 F.R. 22963, provided: Memorandum for the Heads of Executive Departments and Agencies, Eagle feathers hold a sacred place in Native American culture and religious practices. Because of the feathers’ significance to Native American heritage and consistent with due respect for the government-to-government relationship between the Federal and Native American tribal governments, this Administration has undertaken policy and procedural changes to facilitate the collection and distribution of scarce eagle bodies and parts for this purpose. This memorandum affirms and formalizes executive branch policy to ensure that progress begun on this important matter continues across the executive branch.

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

As part of these efforts, agencies shall take steps to improve their collection and transfer of eagle carcasses and eagle body parts (“eagles”) for Native American religious purposes. The success of this initiative requires the participation, and is therefore the responsibility, of all Federal land managing agencies, not just those with eagle population management responsibilities.

To assist agencies in this expanded effort, the Secretary of the Interior shall issue guidelines to all relevant agencies for the proper shipment of eagles to the Repository. After receiving these guidelines, agencies shall immediately adopt policies, practices, and procedures necessary in accordance with these guidelines to recover and transfer eagles to the Repository promptly.

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

(a) ensure the priority of distribution of eagles, upon permit application, first for traditional Native American religious purposes, to the extent permitted by law, and then to other uses;
(b) simplify the eagle permit application process quickly and to the greatest extent possible to help achieve the objectives of this memorandum;
(c) minimize the delay and ensure respect and dignity in the process of distributing eagles for Native American religious purposes to the greatest extent possible;
(d) expand efforts to involve Native American tribes, organizations, and individuals in the distribution process, both at the Repository and on tribal lands, consistent with applicable laws;
(e) review means to ensure that adequate refrigerated storage space is available to process the eagles; and
(f) continue efforts to improve the Repository’s ability to facilitate the objectives of this memorandum.
§ 668b. Enforcement provisions

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

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this subchapter may, without warrant, arrest any person committing in his presence or view a violation of this subchapter or of any permit or regulations issued hereunder and take such person immediately for examination or trial before an officer or court of competent jurisdiction; may execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of this subchapter, and may, with or without a warrant, as authorized by law, search any place. The Secretary of the Interior is authorized to enter into cooperative agreements with State fish and wildlife agencies or other appropriate State authorities to facilitate enforcement of this subchapter, and by said agreements to delegate such enforcement authority to State law enforcement personnel as he deems appropriate for effective enforcement of this subchapter. Any judge of any court established under the laws of the United States, and any United States magistrate judge may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

(b) Forfeiture

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

(c) Customs laws applied

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subchapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this subchapter: Provided, That all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this subchapter, be exercised or performed by the Secretary of the Interior or by such persons as he may designate.

(22 U.S.C. 706 in haec verba.)

CHANGE OF NAME


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 1978 (44 F.R. 39623, 39666, 43 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 718 of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaskan Natural Gas Transportation Projects by section 730(d)(f) of Title 15.

§ 668c. Definitions

As used in this subchapter “whoever” includes also associations, partnerships, and corporations; “take” includes also pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb; “transport” includes also ship, convey, carry, or transport by any means whatever, and deliver or receive or cause to be delivered or received for such shipment, conveyance, carriage, or transportation.
§ 668d. Availability of appropriations for Migratory Bird Treaty Act

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

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

SUBCHAPTER III—ENDANGERED SPECIES OF FISH AND WILDLIFE


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

§ 668aa. Designation; administration; continuance of refuge lands in Alaska; disposal of acquired lands; proceeds

(a) Designation; administration; continuance of resources-management-programs for refuge lands in Alaska; disposal of acquired lands; proceeds

(1) For the purpose of consolidating the authorities relating to the various categories of areas that are administered by the Secretary for the conservation of fish and wildlife, including species that are threatened with extinction, all lands, waters, and interests therein administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas are hereby designated as the “National Wildlife Refuge System” (referred to herein as the “System”), which shall be subject to the provisions of this section, and shall be administered by the Secretary through the United States Fish and Wildlife Service. With respect to refuge lands in the State of Alaska, those programs relating to the management of resources for which any other agency of the Federal Government exercises administrative responsibility through cooperative agreement shall remain in effect, subject to the direct supervision of the United States Fish and Wildlife Service, as long as such agency agrees to exercise such responsibility.

(2) The mission of the System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

(3) With respect to the System, it is the policy of the United States that—

(A) each refuge shall be managed to fulfill the mission of the System, as well as the specific purposes for which that refuge was established;

(B) compatible wildlife-dependent recreation is a legitimate and appropriate general public use of the System, directly related to the mission of the System and the purposes of many refuges, and which generally fosters refuge management and through which the American public can develop an appreciation for fish and wildlife;

(C) compatible wildlife-dependent recreational uses are the priority general public uses of the System and shall receive priority consideration in refuge planning and management; and

(D) when the Secretary determines that a proposed wildlife-dependent recreational use is a compatible use within a refuge, that activity should be facilitated, subject to such restrictions or regulations as may be necessary, reasonable, and appropriate.

(4) In administering the System, the Secretary shall—

(A) provide for the conservation of fish, wildlife, and plants, and their habitats within the System;

(B) ensure that the biological integrity, diversity, and environmental health of the System are maintained for the benefit of present and future generations of Americans;

(EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as an Effective Date note under section 1531 of this title.)
(C) plan and direct the continued growth of the System in a manner that is best designed to accomplish the mission of the System, to contribute to the conservation of the ecosystems of the United States, to complement efforts of States and other Federal agencies to conserve fish and wildlife and their habitats, and to increase support for the System and participation from conservation partners and the public;

(D) ensure that the mission of the System described in paragraph (2) and the purposes of each refuge are carried out, except that if a conflict exists between the purposes of a refuge and the mission of the System, the conflict shall be resolved in a manner that first protects the purposes of the refuge, and, to the extent practicable, that also achieves the mission of the System;

(E) ensure effective coordination, interaction, and cooperation with owners of land adjoining refuges and the fish and wildlife agency of the States in which the units of the System are located;

(F) assist in the maintenance of adequate water quantity and water quality to fulfill the mission of the System and the purposes of each refuge;

(G) acquire, under State law, water rights that are needed for refuge purposes;

(H) recognize compatible wildlife-dependent recreational uses as the priority general public uses of the System through which the American public can develop an appreciation for fish and wildlife;

(I) ensure that opportunities are provided within the System for compatible wildlife-dependent recreational uses;

(J) ensure that priority general public uses of the System receive enhanced consideration over other general public uses in planning and management within the System;

(K) provide increased opportunities for families to experience compatible wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting;

(L) continue, consistent with existing laws and interagency agreements, authorized or permitted uses of units of the System by other Federal agencies, including those necessary to facilitate military preparedness;

(M) ensure timely and effective cooperation and collaboration with Federal agencies and State fish and wildlife agencies during the course of acquiring and managing refuges; and

(N) monitor the status and trends of fish, wildlife, and plants in each refuge.

(5) No acquired lands which are or become a part of the System may be transferred or otherwise disposed of under any provision of law (except by exchange pursuant to subsection (b)(3) of this section) unless—

(A) the Secretary determines with the approval of the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes for which the System was established; and

(B) such lands are transferred or otherwise disposed of for an amount not less than—

(i) the acquisition costs of such lands, in the case of lands of the System which were purchased by the United States with funds from the migratory bird conservation fund, or fair market value, whichever is greater; or

(ii) the fair market value of such lands (as determined by the Secretary as of the date of the transfer or disposal), in the case of lands of the System which were donated to the System.

The Secretary shall pay into the migratory bird conservation fund the aggregate amount of the proceeds of any transfer or disposal referred to in the preceding sentence.

(6) Each area which is included within the System on January 1, 1975, or thereafter, and which was or is—

(A) designated as an area within such System by law, Executive order, or secretarial order; or

(B) so included by public land withdrawal, donation, purchase, exchange, or pursuant to a cooperative agreement with any State or local government, any Federal department or agency, or any other governmental entity, shall continue to be a part of the System until otherwise specified by Act of Congress, except that nothing in this paragraph shall be construed as precluding—

(i) the transfer or disposal of acquired lands within any such area pursuant to paragraph (5) of this subsection;

(ii) the exchange of lands within any such area pursuant to subsection (b)(3) of this section; or

(iii) the disposal of any lands within any such area pursuant to the terms of any cooperative agreement referred to in subparagraph (B) of this paragraph.

(b) Administration; public accommodations contracts; acceptance and use of funds; exchange of properties; cash equalization payments

In administering the System, the Secretary is authorized to take the following actions:

(1) Enter into contracts with any person or public or private agency through negotiation for the provision of public accommodations when, and in such locations, and to the extent that the Secretary determines will not be inconsistent with the primary purpose for which the affected area was established.

(2) Accept donations of funds and to use such funds to acquire or manage lands or interests therein.

(3) Acquire lands or interests therein by exchange (A) for acquired lands or public lands, or for interests in acquired or public lands, under his jurisdiction which he finds to be suitable for disposition, or (B) for the right to remove, in accordance with such terms and conditions as he may prescribe, products from the acquired or public lands within the System. The values of the properties so exchanged shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.
(4) Subject to standards established by and the overall management oversight of the Director, and consistent with standards established by this Act, to enter into cooperative agreements with State fish and wildlife agencies for the management of programs on a refuge.

(5) Issue regulations to carry out this Act.

(c) Prohibited and permitted activities; application of mining and mineral leasing laws, hunting or fishing regulations, and State laws or regulations

No person shall disturb, injure, cut, burn, remove, destroy, or possess any real or personal property of the United States, including natural growth, in any area of the System; or take or possess any fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or nest or egg thereof within any such area; or enter, use, or otherwise occupy any such area for any purpose; unless such activities are performed by persons authorized to manage such area, or unless such activities are permitted either under subsection (d) of this section or by express provision of the law, proclamation, Executive order, or public land order establishing the area, or amendment thereof: Provided, That the United States mining and mineral leasing laws shall continue to apply to any lands within the System to the same extent they apply prior to October 15, 1966, unless subsequently withdrawn under other authority of law. With the exception of endangered species and threatened species listed by the Secretary pursuant to section 1533 of this title in States wherein a cooperative agreement does not exist pursuant to section 1533(c) of this title, nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the System. The regulations permitting hunting and fishing of resident fish and wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws and regulations.

(d) Use of areas; administration of migratory bird sanctuaries as game taking areas; rights of way, easements, and reservations; payment of fair market value

(1) The Secretary is authorized, under such regulations as he may prescribe, to—

(A) permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established: Provided, That not to exceed 40 per centum at any one time of any area that has been, or hereafter may be acquired, reserved, or set aside as an inviolate sanctuary for migratory birds, under any law, proclamation, Executive order, or public land order may be administered by the Secretary as an area within which the taking of migratory game birds may be permitted under such regulations as he may prescribe unless the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such area would be beneficial to the species; and

(B) permit the use of, or grant easements in, over, across, upon, through, or under any areas within the System for purposes such as but not necessarily limited to, power lines, telephone lines, canals, ditches, pipelines, and roads, including the construction, operation, and maintenance thereof, whenever he determines that such uses are compatible with the purposes for which these areas are established.

(2) Notwithstanding any other provision of law, the Secretary may not grant to any Federal, State, or local agency or to any private individual or organization any right-of-way, easement, or reservation in, over, across, through, or under any area within the System in connection with any use permitted by him under paragraph (1)(B) of this subsection unless the grantee pays to the Secretary, at the option of the Secretary, either (A) in lump sum the fair market value determined by the Secretary as of the date of conveyance to the grantee) of the right-of-way, easement, or reservation; or (B) annually in advance the fair market rental value (determined by the Secretary) of the right-of-way, easement, or reservation. If any Federal, State, or local agency is exempted from such payment by any other provision of Federal law, such agency shall otherwise compensate the Secretary by any other means agreeable to the Secretary, including, but not limited to, making other land available or the loan of equipment or personnel; except that (A) any such compensation shall relate to, and be consistent with, the objectives of the National Wildlife Refuge System, and (B) the Secretary may waive such requirement for compensation if he finds such requirement impracticable or unnecessary. All sums received by the Secretary pursuant to this paragraph shall, after payment of any necessary expenses incurred by him in administering this paragraph, be deposited into the Migratory Bird Conservation Fund and shall be available to carry out the provisions for land acquisition of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and the Migratory Bird Hunting Stamp Act (16 U.S.C. 718 et seq.).

(3)(A)(i) Except as provided in clause (iv), the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use and that the use is not inconsistent with public safety. The Secretary may make the determinations referred to in this paragraph for a refuge concurrently with development of a conservation plan under subsection (e) of this section.

(ii) On lands added to the System after March 25, 1996, the Secretary shall identify, prior to acquisition, withdrawal, transfer, reclassification, or donation of any such lands, existing compatible wildlife-dependent recreational uses that the Secretary determines shall be permitted to continue on an interim basis pending completion of the comprehensive conservation plan for the refuge.

(iii) Wildlife-dependent recreational uses may be authorized on a refuge when they are compatible and not inconsistent with public safety. Except for consideration of consistency with State laws and regulations as provided for in subsection (m) of this section, no other determina-
tions or findings are required to be made by the
refuge official under this Act or the Refuge
Recreation Act for wildlife-dependent recreation
to occur.

(iv) Compatibility determinations in existence
on October 9, 1997, shall remain in effect until
and unless modified.

(B) Not later than 24 months after October 9,
1997, the Secretary shall issue final regulations
establishing the process for determining under
subparagraph (A) whether a use is a com-
patible use. These regulations shall—
(i) designate the refuge official responsible
for making initial compatibility determina-
tions;
(ii) require an estimate of the timeframe, lo-
cation, manner, and purpose of each use;
(iii) identify the effects of each use on refuge
resources and purposes of each refuge;
(iv) require that compatibility determina-
tions be made in writing;
(v) provide for the expedited consideration
of uses that will likely have no detrimental ef-
fect on the fulfillment of the purposes of a ref-
uge or the mission of the System;
(vi) provide for the elimination or modifica-
tion of any use as expeditiously as practicable
after a determination is made that the use is not a compatible use;
(vii) require, after an opportunity for public
comment, reevaluation of each existing use,
other than those uses specified in clause (viii),
if conditions under which the use is permitted
change significantly or if there is significant
new information regarding the effects of the
use, but not less frequently than once every 10
years, to ensure that the use remains a com-
patible use, except that, in the case of any use
authorized for a period longer than 10 years
(such as an electric utility right-of-way), the
reevaluation required by this clause shall ex-
amine compliance with the terms and condi-
tions of the authorization, not examine the
authorization itself;
(viii) require, after an opportunity for public
comment, reevaluation of each compatible
wildlife-dependent recreational use when con-
ditions under which the use is permitted
change significantly or if there is significant
new information regarding the effects of the
use, but not less frequently than in conjunc-
tion with each preparation or revision of a
conservation plan under subsection (e) of this
section or at least every 15 years, whichever is
earlier; and

(ix) provide an opportunity for public review
and comment on each evaluation of a use, un-
less an opportunity for public review and com-
ment on the evaluation of the use has already
been provided during the development or revi-
sion of a conservation plan for the refuge
under subsection (e) of this section or has
otherwise been provided during routine, per-
odic determinations of compatibility for wild-
life-dependent recreational uses.

(4) The provisions of this Act relating to de-
terminations of the compatibility of a use shall not
apply to—
(A) overflights above a refuge; and
(B) activities authorized, funded, or con-
ducted by a Federal agency (other than the
United States Fish and Wildlife Service) which
has primary jurisdiction over a refuge or a
portion of a refuge, if the management of
those activities is in accordance with a memo-
randum of understanding between the Sec-
retary or the Director and the head of the Fed-
eral agency with primary jurisdiction over the
refuge governing the use of the refuge.

(e) Refuge conservation planning program for
non-Alaskan refuge lands

(1)(A) Except with respect to refuge lands in
Alaska (which shall be governed by the refuge
planning provisions of the Alaska National In-
terest Lands Conservation Act (16 U.S.C. 3101 et
seq.)), the Secretary shall—
(i) propose a comprehensive conservation
plan for each refuge or related complex of ref-
uges (referred to in this subsection as a “plan-
ning unit”) in the System;
(ii) publish a notice of opportunity for public
comment in the Federal Register on each pro-
posed conservation plan;
(iii) issue a final conservation plan for each
planning unit consistent with the provisions of
this Act and, to the extent practicable, con-
istent with fish and wildlife conservation
plans of the State in which the refuge is
located; and

(iv) not less frequently than 15 years after
the date of issuance of a conservation plan
under clause (iii) and every 15 years there-
after, revise the conservation plan as may be
necessary.

(B) The Secretary shall prepare a comprehen-
sive conservation plan under this subsection for
each refuge within 15 years after October 9, 1997.

(C) The Secretary shall manage each refuge or
planning unit under plans in effect on October 9,
1997, to the extent such plans are consistent
with this Act, until such plans are revised or su-
perseded by new comprehensive conservation
plans issued under this subsection.

(D) Uses or activities consistent with this Act
may occur on any refuge or planning unit before
existing plans are revised or new comprehensive
conservation plans are issued under this sub-
section.

(E) Upon completion of a comprehensive con-
servation plan under this subsection for a refuge
or planning unit, the Secretary shall manage
the refuge or planning unit in a manner consist-
ent with the plan and shall revise the plan at
any time if the Secretary determines that condi-
tions that affect the refuge or planning unit
have changed significantly.

(2) In developing each comprehensive con-
servation plan under this subsection for a plan-
ing unit, the Secretary, acting through the Di-
rector, shall identify and describe—
(A) the purposes of each refuge comprising
the planning unit;
(B) the distribution, migration patterns, and
abundance of fish, wildlife, and plant popu-
lations and related habitats within the plan-
ning unit;
(C) the archaeological and cultural values of
the planning unit;
(D) such areas within the planning unit that
are suitable for use as administrative sites or
visitor facilities;
(E) significant problems that may adversely affect the populations and habitats of fish, wildlife, and plants within the planning unit and the actions necessary to correct or mitigate such problems; and

(F) opportunities for compatible wildlife-dependent recreational uses.

(3) In preparing each comprehensive conservation plan under this subsection, and any revision to such a plan, the Secretary, acting through the Director, shall, to the maximum extent practicable and consistent with this Act—

(A) consult with adjoining Federal, State, local, and private landowners and affected State conservation agencies; and

(B) coordinate the development of the conservation plan or revision with relevant State conservation plans for fish and wildlife and their habitats.

(4)(A) In accordance with subparagraph (B), the Secretary shall develop and implement a process to ensure an opportunity for active public involvement in the preparation and revision of comprehensive conservation plans under this subsection. At a minimum, the Secretary shall require that publication of any final plan shall include a summary of the comments made by States, owners of adjacent or potentially affected land, local governments, and any other affected persons, and a statement of the disposition of concerns expressed in those comments.

(B) Prior to the adoption of each comprehensive conservation plan under this subsection, the Secretary shall issue public notice of the draft proposed plan, make copies of the plan available at the affected field and regional offices of the United States Fish and Wildlife Service, and provide opportunity for public comment.

(f) Penalties

(1) Knowing violations

Any person who knowingly violates or fails to comply with any of the provisions of this Act or any regulations issued thereunder shall be fined under title 18 or imprisoned for not more than 1 year, or both.

(2) Other violations

Any person who otherwise violates or fails to comply with any of the provisions of this Act (including a regulation issued under this Act) shall be fined under title 18 or imprisoned not more than 180 days, or both.

(g) Enforcement provision; arrests, searches, and seizures; custody of property; forfeitures; disposition

Any person authorized by the Secretary to enforce the provisions of this Act or any regulations issued thereunder may, without a warrant, arrest any person violating this Act or regulations in his presence or view, and may execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this Act or regulations, and may with a search warrant search for and seize any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or nest or egg thereof, taken or possessed in violation of this Act or the regulations issued thereunder. Any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or egg thereof seized with or without a search warrant shall be held by such person or by a United States marshal, and upon conviction, shall be forfeited to the United States and disposed of by the Secretary, in accordance with law. The Director of the United States Fish and Wildlife Service is authorized to utilize by agreement, with or without reimbursement, the personnel and services of any other Federal or State agency for purposes of enhancing the enforcement of this Act.

(h) Regulations; continuation, modification, or rescission

Regulations applicable to areas of the System that are in effect on October 15, 1966, shall continue in effect until modified or rescinded.

(i) National conservation recreational area provisions; amendment, repeal, or modification

Nothing in this section shall be construed to amend, repeal, or otherwise modify the provision of the Act of September 28, 1962 (76 Stat. 653; 16 U.S.C. 460k—460k–4) which authorizes the Secretary to administer the areas within the System for public recreation. The provisions of this section relating to recreation shall be administered in accordance with the provisions of said sections.

(j) Exemption from State water laws

Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(k) Emergency power

Notwithstanding any other provision of this Act, the Secretary may temporarily suspend, allow, or initiate any activity in a refuge in the System if the Secretary determines it is necessary to protect the health and safety of the public or any fish or wildlife population.

(l) Hunting and fishing on lands and waters not within System

Nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of fish and resident wildlife on lands or waters that are not within the System.

(m) State authority

Nothing in this Act shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System. Regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, and management plans.

(n) Water rights

(1) Nothing in this Act shall—

(A) create a reserved water right, express or implied, in the United States for any purpose; and

(B) affect any water right in existence on October 9, 1997, or

(C) affect any Federal or State law in existence on October 9, 1997, regarding water quality or water quantity.
(2) Nothing in this Act shall diminish or affect the ability to join the United States in the adjudication of rights to the use of water pursuant to section 666 of title 43.

(o) Coordination with State agencies

Coordination with State fish and wildlife agency personnel or with personnel of other affected State agencies pursuant to this Act shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).


REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89–669, Oct. 15, 1966, 80 Stat. 927, which enacted sections 668aa to 668ee, amended sections 460k, 696, 696a, 715c, 715i to 715k, 718d, and repealed sections 715d–1, 715d–2, 715i, 715m of this title. For complete classification of this Act to the Code, see Tables.

The Migratory Bird Conservation Act, referred to in subsec. (d)(2), is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, which is classified generally to subchapter III (§ 715 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 715 of this title and Tables.

The Migratory Bird Hunting Stunt Act, referred to in subsec. (d)(2), subsequently renamed the Migratory Bird Hunting and Conservation Stunt Act, is act Mar. 16, 1934, ch. 71, 48 Stat. 451, which is classified generally to subchapter IV (§ 718 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 718 of this title and Tables.


AMENDMENTS


Subsec. (a)(2)(A). Pub. L. 105–57, § 3(b), substituted "Secretary" for "Secretary of the Interior" before "determined with the approval".

Subsec. (a)(3). Pub. L. 105–57, §§ 4(1), 5(a), added par. (3) and redesignated former par. (3) as (6).


Subsec. (a)(6)(1). Pub. L. 105–57, § 4(2), substituted "paragraph (5)" for "paragraph (2)".

Subsec. (b). Pub. L. 105–57, § 5(b)(1), substituted "authorized to take the following actions:" for "authorized—" in introductory provisions.

Subsec. (b)(1). Pub. L. 105–57, § 5(b)(2), substituted "Enter" for "to enter".


Subsec. (b)(4), (5). Pub. L. 105–57, § 5(b)(5), added pars. (4) and (5).

Subsec. (c). Pub. L. 105–57, § 8(b), struck out at end "The provisions of this Act shall not be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System."

Subsec. (d)(2). Pub. L. 105–57, § 5(b), substituted "Secretary" for "Secretary of the Interior before "may not grant to any Federal" and before "pursuant to this paragraph".


Subsec. (e). Pub. L. 105–57, § 7(a), added subsec. (e) and redesignated former subsec. (e) as (f).


Subsec. (g). Pub. L. 105–57, § 7(a)(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).


Subsecs. (i), (j). Pub. L. 105–57, § 7(a)(1), redesignated subsecs. (h) and (i) as (i) and (j), respectively.

Subsecs. (k) to (o). Pub. L. 105–57, § 8(a), added subsecs. (k) to (o).

1988—Subsec. (e). Pub. L. 100–633 substituted "thereunder shall be fined under title 18 or imprisoned for not more than 1 year, or both" for "thereunder shall be fined not more than $500 or be imprisoned not more than six months, or both.

1987—Subsec. (f). Pub. L. 100–226 inserted at end "The Director of the United States Fish and Wildlife Service is authorized to utilize by agreement, with or without reimbursement, the personnel and services of any other Federal or State agency for purposes of enhancing the enforcement of this Act.

1978—Subsec. (d)(1)(A). Pub. L. 95–616, § 6, authorized the Secretary to find that the taking of any species of migratory birds in more than 40 percent of the area would be beneficial to the species.

Subsec. (f). Pub. L. 95–616, § 3(f), substituted "disposed of by the Secretary, in accordance with law" for "disposed of by the court."

1976—Subsec. (a). Pub. L. 94–223 designated existing first sentence as par. (1), provided for administration of the System by the Secretary of the Interior through the United States Fish and Wildlife Service and inserted provision respecting continuance of programs relating to management of resources in refuge lands in Alaska, subject to direct supervision of the United States Fish and Wildlife Service; struck out second sentence providing that "Nothing in this Act shall restrict the authority of the Secretary to modify or revoke public land withdrawals affecting lands in the System as presently constituted, or as it may be constituted, whenever he determines that such action is consistent with the public interest.

ing third sentence as par. (2), redesignated as subpars. (A) and (B) former clauses (1) and (2), redesignated as subpar. (B)(1) and (2) former cl. (2)(A) and (B), sub
stituted in subpar. (A) with the approval of for "after consultation with", inserted in subpar. (B)(1) or fair market value, whichever is greater;" and reenacted as second sentence of par. (2) former last sentence of subsec. (a) and added par. (3).

1974—Subsec. (d), Pub. L. 93–509 designated existing provisions as par. (1)(A) and (B) and added par. (2).

1973—Subsec. (c), Pub. L. 93–205 inserted "With the exception of endangered species and threatened species listed by the Secretary pursuant to section 1533 of this title in States wherein a cooperative agreement does not exist pursuant to section 1536(c) of this title" before "nothing in this Act shall be construed" and struck out ", including endangered species thereof," before "on lands not within the System" in second sentence.

1968—Subsec. (a), Pub. L. 90–404 inserted provisions that no acquired lands which are or become a part of the National Wildlife Refuge System may be transferred or otherwise disposed of except under the specified conditions, and provisions that the Secretary pay into the migratory bird conservation fund the proceeds of any such transfer or disposal.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3 of Pub. L. 93–509 provided that: "Section 4 (d)(2) of the Act of October 15, 1966 (as added by this Act) (subsec. (d)(2) of this section) (as in effect before the date of the enactment of this Act)."

EFFECTIVE DATE OF 1973 AMENDMENT


EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90–404 provided that: "The amendments made by the first section of this Act (amending subsec. (a) of this section) shall apply only with respect to transfers and disposals of land initiated and completed after the date of their enactment [July 18, 1968]."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–312, title II, § 201, Oct. 30, 1998, 112 Stat. 2957, provided that: "This title [amending this section, sections 721 and 722 of this title, and section 564w–1 of Title 23, Indiana, enacting provisions set out as a note under section 722 of this title, and amending provisions listed in a table of National Wildlife Refuges set out under this section] may be cited as the 'National Wildlife Refuge System Improvement Act of 1998.'"

SHORT TITLE OF 1997 AMENDMENT

Section 1(a) of Pub. L. 105–57 provided that: "This Act [amending this section and section 686ee of this title] may be cited as the 'National Wildlife Refuge System Improvement Act of 1997.'"

SHORT TITLE OF 1974 AMENDMENT

Section 1 of Pub. L. 93–509 provided: "That this Act [amending this section and section 715 of this title, and enacting provisions set out as notes under this section] may be cited as the 'National Wildlife Refuge System Administration Act Amendments of 1974.'"

SHORT TITLE


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 sections 668dd and 668ee 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, until first anniversary of date of initial operation of 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 715 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 of Title 15.

NATIONAL WILDLIFE REFUGE SYSTEM CENTENNIAL

Pub. L. 106–408, title III, Nov. 1, 2000, 114 Stat. 1782, provided that:

"SEC. 301. SHORT TITLE. "This title may be cited as the 'National Wildlife Refuge System Centennial Act.'"

"SEC. 302. FINDINGS AND PURPOSES.

"(a) FINDINGS.—Congress finds that—

"(1) President Theodore Roosevelt began the National Wildlife Refuge System by establishing the first refuge at Pelican Island, Florida, on March 14, 1933;

"(2) the National Wildlife Refuge System is comprised of more than 93,000,000 acres of Federal land managed by the United States Fish and Wildlife Service in more than 532 individual refuges and thousands of waterfowl production areas located in all 50 States and the territories of the United States;

"(3) the System is the only network of Federal land dedicated singularly to wildlife conservation and where wildlife-dependent recreation and environmental education are priority public uses;

"(4) the System serves a vital role in the conservation of millions of migratory birds, dozens of endangered species and threatened species, some of the premier fisheries of the United States, marine mammals, and the habitats on which such species of fish and wildlife depend;

"(5) each year the System provides millions of Americans with opportunities to participate in wildlife-dependent recreation, including hunting, fishing, and wildlife observation;

"(6)(A) public visitation to national wildlife refuges is growing, with more than 35,000,000 visitors annually; and

"(B) it is essential that visitor centers and public use facilities be properly constructed, operated, and maintained;

"(7) the National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act of 1998 (16 U.S.C. 742f note; Public Law 105–242) [see
Short Title of 1998 Amendments note under section 742a of this title, and the amendments made by that Act, significantly enhance the ability of the United States Fish and Wildlife Service to incorporate volunteers and partnerships in refuge management; “(8) as of the date of the enactment of this Act [Nov. 1, 2000], the System has an unacceptable backlog of critical operations and maintenance needs; and “(9) the occasion of the centennial of the System, in 2003, presents a historic opportunity to enhance natural resource stewardship and expand public enjoyment of the national wildlife refuges of the United States.

“(b) PURPOSES.—The purposes of this title are—

“(1) to establish a commission to promote awareness by the public of the National Wildlife Refuge System as the System celebrates its centennial in 2003;

“(2) to develop a long-term plan to meet the priority operation, maintenance, and construction needs of the System;

“(3) to require an annual report on the needs of the System prepared in the context of—

“(A) the budget submission of the Department of the Interior to the President; and

“(B) the President’s budget request to Congress; and

“(4) to improve public use programs and facilities of the System to meet the increasing needs of the public for wildlife-dependent recreation in the 21st century.

“SEC. 303. NATIONAL WILDLIFE REFUGE SYSTEM CENTENNIAL COMMISSION.

“(a) ESTABLISHMENT.—There is established the National Wildlife Refuge System Centennial Commission (referred to in this title as the ‘Commission’).

“(b) MEMBERS.—

“(1) IN GENERAL.—The Commission shall be composed of—

“(A) the Director of the United States Fish and Wildlife Service;

“(B) up to 10 individuals appointed by the Secretary of the Interior;

“(C) the chairman and ranking minority member of the Committee on Resources (now Committee on Natural Resources) of the House of Representatives and of the Committee on Environment and Public Works of the Senate, who shall be nonvoting members; and

“(D) the congressional representatives of the Migratory Bird Conservation Commission, who shall be nonvoting members.

“(2) APPOINTMENTS.—

“(A) DEADLINE.—The members of the Commission shall be appointed not later than 90 days after the effective date of this title.

“(B) APPOINTMENTS BY THE SECRETARY OF THE INTERIOR.—

“(1) IN GENERAL.—The members of the Commission appointed by the Secretary of the Interior under paragraph (1)(B) shall not be officers or employees of the Federal Government; and

“(2) shall, in the judgment of the Secretary—

“(aa) represent the diverse beneficiaries of the System; and

“(bb) have outstanding knowledge or appreciation of wildlife, natural resource management, or wildlife-dependent recreation.

“(ii) REPRESENTATION OF VIEWS.—In making appointments under paragraph (1)(B), the Secretary of the Interior shall make every effort to ensure that the views of the hunting, fishing, and wildlife observation communities are represented on the Commission.

“(3) VACANCIES.—Any vacancy in the Commission—

“(A) shall not affect the power or duties of the Commission; and

“(B) shall be expeditiously filled in the same manner as the original appointment was made.

“(c) CHAIRPERSON.—The Secretary of the Interior shall appoint one of the members as the Chairperson of the Commission.

“(d) COMPENSATION.—The members of the Commission shall receive no compensation for their service on the Commission.

“(e) TRAVEL EXPENSES—

“(1) LEGISLATIVE BRANCH MEMBERS.—The members of the Commission from the legislative branch of the Federal Government shall be allowed necessary travel expenses, as authorized by other law for official travel, while away from their homes or regular places of business in the performance of services for the Commission.

“(2) EXECUTIVE BRANCH MEMBERS.—The members of the Commission from the executive branch of the Federal Government shall be allowed necessary travel expenses in accordance with section 5702 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

“(3) OTHER MEMBERS AND STAFF.—The members of the Commission appointed by the Secretary of the Interior and staff of the Commission may be allowed necessary travel expenses as authorized by section 5702 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

“(f) DUTIES.—The Commission shall—

“(1) prepare, in cooperation with Federal, State, local, and nongovernmental partners, a plan to commemorate the centennial of the National Wildlife Refuge System beginning on March 14, 2003;

“(2) coordinate the activities of the partners under the plan; and

“(3) plan and host, in cooperation with the partners, a conference on the National Wildlife Refuge System, and assist in the activities of the conference.

“(g) STAFF.—Subject to the availability of appropriations, the Commission may employ such staff as are necessary to carry out the duties of the Commission.

“(h) DONATIONS—

“(1) IN GENERAL.—The Commission may, in accordance with criteria established under paragraph (2), accept and use donations of money, personal property, or personal services.

“(2) CRITERIA.—The Commission shall establish written criteria to be used in determining whether the acceptance of gifts or donations under paragraph (1) would—

“(A) reflect unfavorably on the ability of the Commission or any employee of the Commission to carry out its responsibilities or official duties in a fair and objective manner; or

“(B) compromise the integrity or the appearance of the integrity of any person involved in the activities of the Commission.

“(i) ADMINISTRATIVE SUPPORT.—Upon the request of the Commission—

“(1) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may provide to the Commission such administrative support services as are necessary for the Commission to carry out the duties of the Commission under this title, including services relating to budgeting, accounting, financial reporting, personnel, and procurement; and

“(2) the head of any other appropriate Federal agency may provide to the Commission such advice and assistance, with or without reimbursement, as are appropriate to assist the Commission in carrying out the duties of the Commission.

“(j) REPORTS—

“(1) ANNUAL REPORTS.—Not later than 1 year after the effective date of this title, and annually thereafter, the Commission shall submit to Congress a report on the activities and plans of the Commission.

“(2) FINAL REPORT.—Not later than September 30, 2004, the Commission shall submit to the Committee on Resources (now Committee on Natural Resources)
of the House of Representatives and the Committee on Environment and Public Works of the Senate a final report on the activities of the Commission, including an accounting of all funds received and expended by the Commission.

"(k) TERMINATION.—

"(1) IN GENERAL.—The Commission shall terminate 90 days after the date on which the Commission submits the final report under subsection (j).

"(2) DISPOSITION OF MATERIALS.—Upon termination of the Commission and after consultation with the Archivist of the United States and the Secretary of the Smithsonian Institution, the Secretary of the Interior may—

(i) withdraw and dispose of such materials; or

(ii) otherwise dispose of such materials; and

"(l) FUNDING.—Nothing in this Act [see Short Title of 1997 Amendment note above] is intended to affect—

"(a) the procedures for the determination of the priority status of newly acquired refuge land prepared by the Department of the Interior, and a description of the method used to determine the priority status of the transition costs.

"(b) ANNUAL SUBMISSION.—Beginning with the submission to Congress of the budget for fiscal year 2003, the Secretary of the Interior shall prepare and submit to Congress, in the context of each annual budget submission, a report that contains—

(i) an assessment of expenditures in the prior, current, and upcoming fiscal years to meet the operation and maintenance backlog as identified in the long-term plan under subsection (a); and

(ii) a specification of transition costs, in the prior, current, and upcoming fiscal years, as identified in the analysis of newly acquired refuge land prepared by the Department of the Interior, and a description of the method used to determine the priority status of the transition costs.

"(m) EFFECTIVE DATE.

This title takes effect on January 20, 2001.

CONGRESSIONAL FINDINGS

Section 2 of Pub. L. 105-57 provided that: "The Congress finds the following:

"(1) The National Wildlife Refuge System is comprised of over 92,000,000 acres of Federal lands that have been incorporated within 509 individual units located in all 50 States and the territories of the United States.

"(2) The System was created to conserve fish, wildlife, and plants and their habitats and this conservation mission has been facilitated by providing American opportunities to participate in compatible wildlife-dependent recreation, including fishing and hunting, on System lands and to better appreciate the value of and need for fish and wildlife conservation.

"(3) The System serves a pivotal role in the conservation of migratory birds, anadromous and interjurisdictional fish, marine mammals, endangered and threatened species, and the habitats on which these species depend.

"(4) The System assists in the fulfillment of important international treaty obligations of the United States with regard to fish, wildlife, and plants and their habitats.

"(5) The System includes lands purchased not only through the use of tax dollars but also through the proceeds from sales of Duck Stamps and national wildlife refuge entrance fees. It is a System that is financially supported by those benefiting from and utilizing it.

"(6) When managed in accordance with principles of sound fish and wildlife management and administration, fishing, hunting, wildlife observation, and environmental education in national wildlife refuges have been and are expected to continue to be generally compatible uses.

"(7) On March 25, 1996, the President issued Executive Order 12996 [set out below], which recognized "compatible wildlife-dependent recreational uses involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority public uses of the Refuge System'.

"(8) Executive Order 12996 is a positive step and serves as the foundation for the permanent statutory changes made by this Act [see Short Title of 1997 Amendment note above]."

STATUTORY CONSTRUCTION WITH RESPECT TO ALASKA

Section 9 of Pub. L. 105-57 provided that: "(a) IN GENERAL.—Nothing in this Act [see Short Title of 1997 Amendment note above] is intended to affect—

"(1) the provisions for subsistence uses in Alaska set forth in the Alaska National Interest Lands Conservation Act (Public Law 96-487) [see Short Title note set out under section 301 of this title], including those in titles III [enacting provisions listed in a note under section 3101 of this title], and VIII [16 U.S.C. 3111 et seq.] of that Act:

"(i) the provisions for subsistence uses in Alaska set forth in the Alaska National Interest Lands Conservation Act [16 U.S.C. 3121], the jurisdiction over subsistence uses in Alaska, or any assertion of subsistence uses in Alaska in the Federal courts; and


"(b) CONFLICTS OF LAWS.—If any conflict arises between any provision of this Act and any provision of the Alaska National Interest Lands Conservation Act, then the provision in the Alaska National Interest Lands Conservation Act shall prevail."
LAND TRANSFER AND CONVEYANCE, Pease Air Force Base, New Hampshire


(a) TRANSFER BY THE AIR FORCE.—Notwithstanding any other provision of law, the Secretary of the Air Force shall transfer to the Department of the Interior a parcel of real property located west of McIntyre Road at the site of former Pease Air Force Base, New Hampshire: Provided, That the Secretary of the Air Force shall retain responsibility for any hazardous substances which may be found on the property so transferred.

(b) ESTABLISHMENT OF NATIONAL WILDLIFE REFUGE.—

Except as provided in subsection (c), the Secretary of the Interior shall designate the parcel of land transferred under subsection (a) as an area in the National Wildlife Refuge System under the authority of section 4 of the Act of October 15, 1966 (16 U.S.C. 688dd).

(c) CONVEYANCE TO STATE OF NEW HAMPSHIRE.—

(1) CONVEYANCE.—Subject to paragraphs (2) through (5), the Secretary of the Interior shall convey to the State of New Hampshire, without consideration, all right, title, and interest of the United States in and to a parcel of real property consisting of not more than 100 acres that is a part of the real property transferred to the Secretary under subsection (a) and that the Secretary determines to be suitable for use as a cemetery.

(2) CONDITION OF CONVEYANCE.—The conveyance under paragraph (1) shall be subject to the condition that the State of New Hampshire use the property conveyed under that paragraph only for the purpose of establishing and operating a State cemetery for veterans.

(3) REVERSION.—If the Secretary determines at any time that the State of New Hampshire is not complying with the condition specified in paragraph (2), all right, title, and interest in and to the property conveyed pursuant to paragraph (1), including any improvements thereon, shall revert to the United States and the United States shall have the right of immediate entry thereon.

(4) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of real property to be conveyed under paragraph (1) shall be determined by a survey that is satisfactory to the Secretary.

(5) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms or conditions in connection with the conveyance under this subsection that the Secretary determines appropriate to protect the interests of the United States.

(d) The purposes for which this national wildlife refuge is established are—

(1) to encourage the natural diversity of plant, fish, and wildlife species within the refuge, and to provide for their conservation and management;

(2) to protect species listed as endangered or threatened, or identified as candidates for listing pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(3) to preserve and enhance the water quality of aquatic habitat within the refuge; and

(4) to fulfill the international treaty obligations of the United States relating to fish and wildlife.

NATIONAL WILDLIFE REFUGES

Provisions relating to national wildlife refuges were contained in the following acts and executive documents:


Kosciusko National Wildlife Refuge (seeElizabeth Hartwell Mason Neck National Wildlife Refuge).


Wyandotte National Wildlife Refuge, Michigan (see Detroit River International Wildlife Refuge).


NATIONAL WILDLIFE CONSERVATION AREA


NATIONAL ENVIRONMENTAL CENTERS


EX. ORD. NO. 12996, MANAGEMENT AND GENERAL PUBLIC USE OF NATIONAL WILDLIFE REFUGE SYSTEM

Ex. Ord. No. 12996, Mar. 25, 1996, 61 F.R. 13647, provided:


SECTION 1. The Mission of the National Wildlife Refuge System. The mission of the National Wildlife Refuge System ("Refuge System") is to preserve a national network of lands and waters for the conservation, management and use of fish, wildlife, and plant resources of the United States for the benefit of present and future generations.

Sinc. 2. Guiding Principles. To help ensure a bright future for its treasured national heritage, I hereby affirm the following four guiding principles for the management and general public use of the Refuge System:

(a) Public Use. The Refuge System provides important opportunities for compatible wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

(b) Habitat. Fish and wildlife will not prosper without high-quality habitat, and without fish and wildlife, traditional uses of refuges cannot be sustained. The Refuge System will continue to conserve and enhance the quality and diversity of fish and wildlife habitat within refuges.

(c) Partnerships. America's sportsmen and women were the first partners who insisted on protecting valuable wildlife habitat within wildlife refuges. Conservation partnerships with other Federal agencies, State agencies, Tribes, organizations, industry, and the general public can make significant contributions to the growth and management of the Refuge System.

(d) Public Involvement. The public should be given a full and open opportunity to participate in decisions regarding acquisition and management of our National Wildlife Refuges.

Sinc. 3. Directives to the Secretary of the Interior. To the extent consistent with existing laws and interagency agreements, the Secretary of the Interior, in carrying out his trust and stewardship responsibilities for the Refuge System, is directed to:

(a) recognize compatible wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority general public uses of the Refuge System through which the American public can develop an appreciation for fish and wildlife;

(b) provide expanded opportunities for these priority public uses within the Refuge System when they are compatible and consistent with sound principles of fish and wildlife management, and are otherwise in the public interest;

(c) ensure that such priority public uses receive enhanced attention in planning and management within the Refuge System;

(d) provide increased opportunities for families to experience wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting;

(e) ensure that the biological integrity and environmental health of the Refuge System is maintained for the benefit of present and future generations of Americans;

(f) continue, consistent with existing laws and interagency agreements, authorized or permitted uses of units of the Refuge System by other Federal agencies, including those necessary to facilitate military preparedness;

(g) plan and direct the continued growth of the Refuge System in a manner that is best designed to accomplish the mission of the Refuge System, to contribute to the conservation of the ecosystems of the United States, and to increase support for the Refuge System and participation from conservation partners and the public;

(h) ensure timely and effective cooperation and collaboration with Federal agencies and State fish and wildlife agencies during the course of acquiring and managing National Wildlife Refuges;

(i) ensure appropriate public involvement opportunities will be provided in conjunction with refuge planning and management activities; and
(j) identify, prior to acquisition, existing compatible wildlife-dependent uses of new refuge lands that shall be permitted to continue on an interim basis pending completion of comprehensive planning.

§ 668ee. Definitions

For purposes of this Act:

(1) The term “compatible use” means a wildlife-dependent recreational use or any other use of a refuge that, in the sound professional judgment of the Director, will not materially interfere with or detract from the fulfillment of the mission of the System or the purposes of the refuge.

(2) The terms “wildlife-dependent recreation” and “wildlife-dependent recreational use” mean a use of a refuge involving hunting, fishing, wildlife observation and photography, or environmental education and interpretation.

(3) The term “sound professional judgment” means a finding, determination, or decision that is consistent with principles of sound fish and wildlife management and administration, available science and resources, and adherence to the requirements of this Act and other applicable laws.

(4) The terms “conserving”, “conservation”, “manage”, “managing”, and “management”, mean to sustain and, where appropriate, restore and enhance, healthy populations of fish, wildlife, and plants utilizing, in accordance with applicable Federal and State laws, methods and procedures associated with modern scientific resource programs. Such methods and procedures include, consistent with the provisions of this Act, protection, research, census, law enforcement, habitat management, propagation, live trapping and transplanted, and regulated taking.

(5) The term “Coordination Area” means a wildlife management area that is made available to a State—

(A) by cooperative agreement between the United States Fish and Wildlife Service and a State agency having control over wildlife resources pursuant to section 664 of this title; or

(B) by long-term leases or agreements pursuant to title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525; 7 U.S.C. 1010 et seq.).

(6) The term “Director” means the Director of the United States Fish and Wildlife Service or a designee of that Director.

(7) The terms “fish”, “wildlife”, and “fish and wildlife” mean any wild member of the animal kingdom whether alive or dead, and regardless of whether the member was bred, hatched, or born in captivity, including a part, product, egg, or offspring of the member.

(8) The term “person” means any individual, partnership, corporation, or association.

(9) The term “plant” means any member of the plant kingdom in a wild, unconfined state, including any plant community, seed, root, or other part of a plant.

(10) The terms “purposes of the refuge” and “purposes of each refuge” mean the purposes specified in or derived from the law, proclamation, executive order, agreement, public land order, donation document, or administrative memorandum establishing, authorizing, or expanding a refuge, refuge unit, or refuge subunit.

(11) The term “refuge” means a designated area of land, water, or an interest in land or water within the System, but does not include Coordination Areas.

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

(13) The terms “State” and “United States” mean the several States of the United States, Puerto Rico, American Samoa, the Virgin Islands, Guam, and the territories and possessions of the United States.

(14) The term “System” means the National Wildlife Refuge System designated under section 668dd(a)(1) of this title.

(15) The terms “take”, “taking”, and “taken” mean to pursue, hunt, shoot, capture, collect, or kill, or to attempt to pursue, hunt, shoot, capture, collect, or kill.


REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 89–669, Oct. 15, 1966, 80 Stat. 927, as amended, which enacted sections 668aa to 668ee, amended sections 660k, 696, 696b, 715c, 715i to 715k, 718d, and repealed sections 664d, 664l, and section 668dd of this title. For complete classification of this Act to the Code, see Tables.

The Bankhead-Jones Farm Tenant Act, referred to in par. (5)(B), is act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of the Act is classified generally to subchapter III (§1001 et seq.) of chapter 33 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1000 of Title 7 and Tables.

AMENDMENTS

1997—Pub. L. 105–57 inserted section catchline and amended text generally. Prior to amendment, text read as follows:

“(a) The term ‘person’ as used in this Act means any individual, partnership, corporation, or association.

(b) The terms ‘take’ or ‘taking’ or ‘taken’ as used in this Act mean to pursue, hunt, shoot, capture, collect, or kill, or to attempt to pursue, hunt, shoot, capture, collect, or kill.

(c) The terms ‘State’ and the ‘United States’ as used in this Act mean the several States of the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam.”

§§ 668ff to 668jj. Omitted

Sections, Pub. L. 92–330, June 30, 1972, 86 Stat. 399, which established San Francisco Bay National Wildlife Refuge to be administered by Secretary of the Interior in accordance with the National Wildlife Refuge System Administration Act, have been omitted because of the limited scope of the subject matter. The San Francisco Bay National Wildlife Refuge [now Don Edwards San Francisco Bay National Wildlife Refuge] has been set out in the table of National Wildlife Refuges under section 668dd of this title.

§§ 668kk to 668ss. Omitted

§ 669. Cooperation of Secretary of the Interior with States; conditions

The Secretary of the Interior is authorized to cooperate with the States, through their respective State fish and game departments, in wildlife-restoration projects as hereinafter in this chapter set forth: but no money apportioned under this chapter to any State shall be expended therein until its legislature, or other State agency authorized by the State constitution to make laws governing the conservation of wildlife, shall have assented to the provision of this chapter and shall have passed laws for the conservation of wildlife which shall include a prohibition against the diversion of license fees paid by hunters for any other purpose than the administration of said State fish and game department, except that, until the final adjournment of the first regular session of the legislature held after September 2, 1937, the assent of the Governor of the State shall be sufficient.

The Secretary of the Interior and the State fish and game department of each State accepting the benefits of this chapter, shall agree upon the wildlife-restoration projects to be aided in such State under the terms of this chapter and all projects shall conform to the standards fixed by the Secretary of the Interior.


Transfer of Functions

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees,