16 U.S.C. 698v–2(e) underlying fee title lands acquired by the Pueblo of Santa Clara shall not be developed without the consent of the Secretary of the Interior by the Pueblo of Santa Clara.

16 U.S.C. 698v–2(e)

Special management requirements for Federal lands recently added to Craters of the Moon National Monument, Idaho

(a) Redesignation

The approximately 410,000 acres of land added to the Craters of the Moon National Monument by Presidential Proclamation 7373 of November 9, 2000, and identified on the map accompanying the Proclamation for administration by the National Park Service, shall, on and after August 21, 2002, be known as the “Craters of the Moon National Preserve”.

(b) Administration

(1) In general

Except as provided by paragraph (2), the Craters of the Moon National Preserve shall be administered in accordance with—

(A) Presidential Proclamation 7373 of November 9, 2000;

(b) the Act of June 8, 1906,commonly referred to as the “Antiquities Act”; 34 Stat. 225; 16 U.S.C. 431; and

(c) the laws generally applicable to units of the National Park System, including the Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916 (16 U.S.C. 1 et seq.), referred to in subsec. (b)(1)(C), is act Aug. 25, 1916, ch. 408, 39 Stat. 535, known as the National Park Service Organic Act, which enacted sections 1, 2, 3, and 4 of this title and provisions set out as a note under section 100101 of Title 54, National Park Service and Related Programs. Sections 1 to 4 of the Act were repealed and restated as section 1865(a) of Title 18, Crimes and Criminal Procedure, and section 100101(a), chapter 1003, and sections 100751(a), 100752, 100753, and 102101 of Title 54 by Pub. L. 113–287, §§ 3, 4(a)(1), 7, Dec. 19, 2014, 128 Stat. 3094, 3260, 3272. For complete classification of this Act to the Code, see Tables. For disposition of former sections of this title, see Disposition Table preceding section 100101 of Title 54.

The Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916 (16 U.S.C. 1 et seq.), referred to in subsec. (b)(1)(B), is act June 8, 1906, ch. 3060, 34 Stat. 225, which was classified generally to sections 431, 432, and 433 of this title. The Act was repealed and restated as section 1866(b) of Title 18, Crimes and Criminal Procedure, and sections 333001(a) to (c), 333002, and 333003 of Title 54, National Park Service and Related Programs, by Pub. L. 113–287, §§ 3, 4(a)(1), 7, Dec. 19, 2014, 128 Stat. 3094, 3260, 3272. For complete classification of this Act to the Code, see Tables. For disposition of former sections of this title, see Disposition Table preceding section 100101 of Title 54.

(b) Administration

(2) Hunting

The Secretary of the Interior shall permit hunting on lands within the Craters of the Moon National Preserve in accordance with the applicable laws of the United States and the State of Idaho. The Secretary, in consultation with the State of Idaho, may designate zones where, and establish periods when, no hunting may be permitted for reasons of public safety, protection of the area’s resources, administration, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting shall be put into effect only after consultation with the State of Idaho.


References in Text

Presidential Proclamation 7373, referred to in subsec. (a) and (b)(1)(A), appears in the item for Craters of the Moon National Monument, Idaho, in the table under the heading “National Monuments Established Under Presidential Proclamation”, set out as a note under section 130001 of Title 54, National Park Service and Related Programs.

1 So in original. The comma probably should not appear.

2See References in Text note below.
The duties and powers of the Department of the Interior include the preservation, distribution, introduction, and restoration of game birds and other wild birds. The Secretary of the Interior is authorized to adopt such measures as may be necessary to carry out the purposes of this Act, and to purchase such game birds and other wild birds as may be required therefor, subject, however, to the laws of the various States and Territories. The object and purpose of this Act is to aid in the restoration of such birds in those parts of the United States adapted thereto where the same have become scarce or extinct, and also to regulate the introduction of American or foreign birds or animals in localities where they have not heretofore existed.

The Secretary of the Interior shall from time to time collect and publish useful information as to the propagation, uses, and preservation of such birds.

And the Secretary of the Interior shall make and publish all needful rules and regulations for carrying out the purposes of this Act, and shall expend for said purposes such sums as Congress may appropriate therefor.


References in Text

This Act, referred to in text, is act May 25, 1900, section 1 of which is classified to this section. Sections 2 to 4 of the Act were repealed and restated by sections 241 to 244 of the Criminal Code of 1909 (approved Mar. 4, 1909, ch. 321) which were classified to sections 391 to 394 of former Title 18. Such sections were subsequently repealed and reenacted as sections 42 to 44 of Title 18, Crimes and Criminal Procedure. Section 5 of the Act which was classified to section 667e of this title was repealed by Pub. L. 97–79, §9(b)(2), Nov. 16, 1981, 95 Stat. 1079.

Transfer of Functions

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

Ex. Ord. No. 13186. Responsibilities of Federal Agencies to Protect Migratory Birds

Ex. Ord. No. 13186, Jan. 10, 2001, 66 F.R. 3853, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of the purposes of the migratory bird conventions, the Migratory Bird Treaty Act (16 U.S.C. 703–711), the Bald and Golden Eagle Protection Acts (16 U.S.C. 668–668q), the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and other pertinent statutes, it is hereby ordered as follows:

Section 1. Policy. Migratory birds are of great ecological and economic value to this country and to other countries. They contribute to biological diversity and bring tremendous enjoyment to millions of Americans who study, watch, feed, or hunt these birds throughout the United States and other countries. The United States has recognized the critical importance of this shared resource by ratifying international, bilateral conventions for the conservation of migratory birds. Such conventions include the Convention for the Protection of Migratory Birds with Great Britain on behalf of Canada 1916, the Convention for the Protection of Migratory Birds and Game Mammals-Mexico 1936, the Convention for the Protection of Birds and Their Environment-Japan 1972, and the Convention for the Conservation of Migratory Birds and Their Environment-Union of Soviet Socialist Republics 1978. These migratory bird conventions impose substantive obligations on the United States for the conservation of migratory birds and their habitats, and through the

Subchapter I—Generally

§ 701. Game and wild birds; preservation

The duties and powers of the Department of the Interior include the preservation, distribution, introduction, and restoration of game birds and other wild birds. The Secretary of the Interior is authorized to adopt such measures as may be necessary to carry out the purposes of this Act, and to purchase such game birds and other wild birds as may be required therefor, subject, however, to the laws of the various States and Territories. The object and purpose of this Act is to aid in the restoration of such birds in those parts of the United States adapted thereto where the same have become scarce or extinct, and also to regulate the introduction of American or foreign birds or animals in localities where they have not heretofore existed.

The Secretary of the Interior shall from time to time collect and publish useful information as to the propagation, uses, and preservation of such birds.

And the Secretary of the Interior shall make and publish all needful rules and regulations for carrying out the purposes of this Act, and shall expend for said purposes such sums as Congress may appropriate therefor.


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The Secretary of the Interior shall from time to time collect and publish useful information as to the propagation, uses, and preservation of such birds.

And the Secretary of the Interior shall make and publish all needful rules and regulations for carrying out the purposes of this Act, and shall expend for said purposes such sums as Congress may appropriate therefor.


References in Text

This Act, referred to in text, is act May 25, 1900, section 1 of which is classified to this section. Sections 2 to 4 of the Act were repealed and restated by sections 241 to 244 of the Criminal Code of 1909 (approved Mar. 4, 1909, ch. 321) which were classified to sections 391 to 394 of former Title 18. Such sections were subsequently repealed and reenacted as sections 42 to 44 of Title 18, Crimes and Criminal Procedure. Section 5 of the Act which was classified to section 667e of this title was repealed by Pub. L. 97–79, §9(b)(2), Nov. 16, 1981, 95 Stat. 1079.

Transfer of Functions

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior.
Migratory Bird Treaty Act (Act), the United States has implemented these migratory bird conventions with respect to the United States. This Executive Order directs executive departments and agencies to take certain actions to further implement the Act.

§ 701 Definitions. For purposes of this order:

(a) "Take" means take as defined in 5 C.F.R. 10.12, and includes both "intentional" and "unintentional" take.

(b) "Intentional take" means take that is the purpose of the activity in question.

(c) "Unintentional take" means take that results from, but is not the purpose of, the activity in question.

(d) "Migratory bird" means any bird listed in 5 C.F.R. 10.13.

(e) "Migratory bird resources" means migratory birds and the habitats upon which they depend.

(f) "Migratory bird convention" means, collectively, the bilateral conventions (with Great Britain/Canada, Mexico, Japan, and Russia) for the conservation of migratory bird resources.

(g) "Federal agency" means an executive department or agency, but does not include independent establishments as defined by 5 U.S.C. 104.

(h) "Action" means a program, activity, project, official policy (such as a rule or regulation), or formal plan directly carried out by a Federal agency. Each Federal agency will further define what the term "action" means with respect to its own authorities and what programs should be included in the agency-specific Memoranda of Understanding required by this order. Actions delegated to or assumed by nonfederal entities, or carried out by nonfederal entities with Federal assistance, are not subject to this order. Such actions, however, continue to be subject to the Migratory Bird Treaty Act.

(i) "Species of concern" refers to those species listed in the periodic report "Migratory Nongame Birds of Management Concern in the United States," priority migratory bird species as documented by established plans (such as Bird Conservation Regions in the North American Bird Conservation Initiative or Partners in Flight physiographic areas), and those species listed in 50 C.F.R. 17.11.

Sect. 3. Federal Agency Responsibilities. (a) Each Federal agency taking actions that have, or are likely to have, a measurable negative effect on migratory bird populations is directed to develop and implement, within 2 years, a Memorandum of Understanding (MOU) with the Fish and Wildlife Service (Service) that shall promote the conservation of migratory bird populations.

(b) In coordination with affected Federal agencies, the Service shall develop a schedule for completion of the MOUs within 180 days of the date of this order. The schedule shall give priority to completing the MOUs with agencies having the most substantive impacts on migratory birds.

(c) Each MOU shall establish protocols for implementation of the MOU and for reporting accomplishments. These protocols may be incorporated into existing actions; however, the MOU shall recognize that the agency may not be able to implement some elements of the MOU until such time as the agency has successfully included them in each agency’s formal planning processes (such as revision of agency land management plans, land use compatibility guidelines, integrated resource management plans, and fishery management plans), including public participation and NEPA analysis, as appropriate. This order and the MOUs to be developed by the agencies are intended to be implemented when new actions or renewal of contracts, permits, delegations, or other third party agreements are initiated as well as during the initiation of new, or revisions to, land management plans.

(d) Each MOU shall include an elevation process to resolve any dispute between the signatory agencies regarding a particular practice or action.

(e) Pursuant to its MOU, each agency shall, to the extent permitted by law and subject to the availability of appropriations and within Administration budgetary limits, and in harmony with agency missions:

(1) support the conservation intent of the migratory bird conventions by integrating bird conservation principles, measures, and practices into agency activities and by avoiding or minimizing, to the extent practicable, adverse impacts on migratory bird resources when conducting agency actions;

(2) restore and enhance the habitat of migratory birds, as practicable;

(3) prevent or abate the pollution or detrimental alteration of the environment for the benefit of migratory birds, as practicable;

(4) design migratory bird habitat and population conservation principles, measures, and practices, into agency plans and planning processes (natural resource, land management, and environmental quality planning, including, but not limited to, forest and rangeland planning, coastal management planning, watershed planning, etc.) as practicable, and coordinate with other agencies and nonfederal partners in planning efforts;

(5) within established authorities and in conjunction with the adoption, amendment, or revision of agency management plans and guidance, ensure that agency plans and actions promote programs and recommendations of comprehensive migratory bird planning efforts such as Partners-in-Flight, U.S. National Shorebird Plan, North American Waterfowl Management Plan, North American Colonial Waterbird Plan, and other corresponding efforts, as well as other cooperative efforts, including the Food and Agricultural Organization’s International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries;

(6) ensure that environmental analyses of Federal actions required by the NEPA or other established environmental review processes evaluate the effects of actions and agency plans on migratory birds, with emphasis on species of concern;

(7) provide notice to the Service in advance of conducting an action that is intended to take migratory birds, or annually report to the Service on the number of individuals of each species of migratory birds intentionally taken during the conduct of any agency action, including but not limited to banding or marking, scientific collecting, taxidermy, and depredation control;

(8) minimize the intentional take of species of concern by: (i) delineating standards and procedures for such take; and (ii) developing procedures for the review and evaluation of take actions. With respect to intentional take, the MOU shall be consistent with the appropriate sections of 50 C.F.R. parts 10, 21, and 22.

(9) identify where unintentional take reasonably attributable to agency actions is having, or is likely to have, a measurable negative effect on migratory bird populations, focusing first on species of concern, priority habitats, and key risk factors. With respect to those actions so identified, the agency shall develop and use principles, standards, and practices that will lessen the amount of unintentional take, developing any such conservation efforts in cooperation with the Service. These principles, standards, and practices shall be regularly evaluated and revised to ensure that they are effective in lessening the detrimental effect of agency actions on migratory bird populations. The agency also shall inventory and monitor bird habitat and populations within the agency’s capabilities and authorities to the extent feasible to facilitate decisions about the need for, and effectiveness of, conservation efforts;

(10) within the scope of its statutorily-designated authorities, control the import, export, and establishment in the wild of live exotic animals and plants that may be harmful to migratory bird resources;

(11) promote research and information exchange related to the conservation of migratory bird resources, including coordinated inventories and monitoring programs, the collection and assessment of information on environmental contaminants and other physical or biologi-
cal stressors having potential relevance to migratory bird conservation. Where such information is collected in the course of agency actions or supported through Federal financial assistance, reasonable efforts shall be made to share such information with the Service, the Biological Resources Division of the U.S. Geological Survey, and other appropriate repositories of such data (e.g., the Cornell Laboratory of Ornithology);

(12) provide training and information to appropriate employees on methods and means of avoiding or minimizing the take of migratory birds and conserving and restoring migratory bird habitat;

(13) promote migratory bird conservation in international activities and with other countries and international partners, in consultation with the Department of State, as appropriate or relevant to the agency's authorities;

(14) recognize and promote economic and recreational values of birds, as appropriate; and

(15) develop partnerships with non-Federal entities to further bird conservation.

(f) Notwithstanding the requirement to finalize an MOU within 2 years, each agency is encouraged to immediately begin implementing the conservation measures set forth above in subparagraphs (1) through (15) of this section, as appropriate and practicable.

(g) Each agency shall advise the public of the availability of its MOU through a notice published in the Federal Register.

§ 702. Importation of eggs of game birds for propagation

The Secretary of the Interior shall have the power to authorize the importation of eggs of game birds for purposes of propagation, and he shall prescribe all necessary rules and regulations governing the importation of eggs of said birds for such purposes.


TRANSFER OF FUNCTIONS

The Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 701 of this title.

§ 703. Taking, killing, or possessing migratory birds unlawful

(a) In general

Unless and except as permitted by regulations made as hereinafter provided in this subchapter, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof, included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916 (39 Stat. 1702), the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972, and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976.

(b) Limitation on application to introduced species

(1) In general

This subchapter applies only to migratory bird species that are native to the United States or its territories.

(2) Native to the United States defined

(A) In general

Subject to subparagraph (B), in this subsection the term “native to the United States or its territories” means occurring in the United States or its territories as the result of natural biological or ecological processes.

(B) Treatment of introduced species

For purposes of paragraph (1), a migratory bird species that occurs in the United States or its territories solely as a result of intentional or unintentional human-assisted introduction shall not be considered native to the United States or its territories unless—

(i) it was native to the United States or its territories and extant in 1918;

(ii) it was extirpated after 1918 throughout its range in the United States and its territories; and

(iii) after such extirpation, it was reintroduced in the United States or its territories as a part of a program carried out by a Federal agency.

(July 3, 1918, ch. 128, § 2, 40 Stat. 755; June 20, 1936, ch. 364, § 3, 49 Stat. 1556; Pub. L. 93–300, § 1,

**AMENDMENTS**


1974—Pub. L. 93–300 substituted “any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or in part, of any such bird or any part, nest, or egg thereof” for “any part, nest, or egg of any such birds” and “and”, and the United States and the Government of Japan for the protection of migratory birds and in danger of extinction, and their environments concluded November 19, 1976.”

1936—Act June 20, 1936, amended section generally.

Prior to amendment, text read as follows: “Unless and except as permitted by regulations made as hereinafter provided, it shall be unlawful to hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time or in any manner, any migratory bird, included in the terms of the convention between the United States and Great Britain for the protection of migratory birds concluded August sixteenth, nineteen hundred and sixteen, or any part, nest, or egg of any such bird.”

**EFFECTIVE DATE OF 1974 AMENDMENT**

Pub. L. 93–300, §3, June 1, 1974, 88 Stat. 190, provided that: “The amendments made by this Act [amending this section] shall take effect on the date on which the President proclaims the exchange of ratifications of the convention between the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972.” for period at end.

1936—Act June 20, 1936, amended section generally.

**EFFECTIVE DATE OF 1936 AMENDMENT**

Act June 20, 1936, ch. 634, §3, 49 Stat. 1556, provided in part that the amendment by section 3 is effective as of the day aforesaid, meaning the day on which the President shall proclaim the exchange of ratifications of the convention between the United States and the Government of Japan for the protection of migratory birds and in danger of extinction, and their environment, concluded March 4, 1972, or on the date of the enactment of this Act [June 1, 1974], whichever date is later.”

**ELIMINATION OF BARRIERS TO IMPROVE AT-RISK BRIDGES**


“(1) TEMPORARY AUTHORIZATION.—

“(A) IN GENERAL.—Until the Secretary of the Interior takes the action described in subsection (b), the take of nesting swallows to facilitate a construction project on a bridge eligible for funding under title 23, United States Code, with any component condition rating of 3 or less (as defined by the National Bridge Inventory General Condition Guidance issued by the Federal Highway Administration) is authorized under the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) between April 1 and August 31.

“(B) MEASURES TO MINIMIZE IMPACTS.—

“(A) IN GENERAL.—Prior to the taking of nesting swallows authorized under paragraph (1), any person taking that action shall submit to the Secretary of the Interior a document that contains—

“(i) the name of the person acting under the authority of paragraph (1) to take nesting swallows;

“(ii) a list of practicable measures that will be undertaken to minimize or mitigate significant adverse impacts on the population of that species;

“(iii) the time period during which activities will be carried out that will result in the taking of that species; and

“(iv) an estimate of the number of birds, by species, to be taken in the proposed action.

“(B) AUTHORIZATION OF TAKE.—

“(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Transportation, shall promulgate a regulation under the authority of section 3 of the Migratory Bird Treaty Act (16 U.S.C. 703) authorizing the take of nesting swallows to facilitate bridge repair, maintenance, or construction—

“(A) without individual permit requirements; and

“(B) under terms and conditions determined to be consistent with treaties relating to migratory birds that protect swallow species occurring in the United States.

“(2) TERMINATION.—On the effective date of a final rule (promulgated) under this subsection by the Secretary of the Interior, subsection (a) shall have no force or effect.

“(C) SUSPENSION OR WITHDRAWAL OF TAKE AUTHORIZATION.—If the Secretary of the Interior, in consultation with the Secretary of Transportation, determines that taking of nesting swallows carried out under the authority provided in subsection (a)(1) is having a significant adverse impact on swallow populations, the Secretary of the Interior may suspend that authority through publication in the Federal Register.”

**PUBLICATION OF LIST**


“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section [Dec. 8, 2004], the Secretary of the Interior shall publish in the Federal Register a list of all nonnative, human-introduced bird species to which the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) does not apply. As necessary, the Secretary may update and publish the list of species exempted from protection of the Migratory Bird Treaty Act.

“(2) PUBLIC COMMENT.—Before publishing the list under paragraph (1), the Secretary shall provide adequate time for public comment.

“(3) EFFECT OF SECTION.—Nothing in this subsection shall delay implementation of other provisions of this section [amending this section and enacting provisions set out as notes under this section and title 710 of this title] or amendments made by this section that exclude nonnative, human-introduced bird species from the application of the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).”

**RELATIONSHIP OF PUB. L. 108–447 TO TREATIES**

Pub. L. 108–447, div. E, title I, §143(d), Dec. 8, 2004, 118 Stat. 3072, provided that: “It is the sense of Congress that the language of this section [amending this section and enacting provisions set out as notes under this section and section 710 of this title] is consistent with the intent and language of the 4 bilateral treaties implemented by this section.”

**INCIDENTAL TAKING OF MIGRATORY BIRDS DURING MILITARY READINESS ACTIVITIES**

“(a) INTERIM AUTHORITY FOR INCIDENTAL TAKINGS.—During the period described in subsection (c), section 2 of the Migratory Bird Treaty Act (16 U.S.C. 703) shall not apply to the incidental taking of a migratory bird by a member of the Armed Forces during a military readiness activity authorized by the Secretary of Defense or the Secretary of the military department concerned.

“(b) IDENTIFICATION OF MEASURES TO MINIMIZE IMPACT OF ACTIVITIES.—During the periods described in subsections (c) and (d), the Secretary of Defense shall, in consultation with the Secretary of the Interior, identify measures—

“(1) to minimize and mitigate, to the extent practicable, any adverse impacts of authorized military readiness activities on affected species of migratory birds; and

“(2) to monitor the impacts of such military readiness activities on affected species of migratory birds.

“(c) PERIOD OF APPLICATION FOR INTERIM AUTHORITY.—The period described in this subsection is the period beginning on the date of the enactment of this Act (Dec. 2, 2002) and ending on the date on which the Secretary of the Interior publishes in the Federal Register a notice that—

“(1) regulations authorizing the incidental taking of migratory birds by members of the Armed Forces have been prescribed in accordance with the requirements of subsection (d);

“(2) all legal challenges to the regulations and to the manner of their promulgation (if any) have been exhausted as provided in subsection (e); and

“(3) the regulations have taken effect.

“(d) INCIDENTAL TAKINGS AFTER INTERIM PERIOD.—(1) Not later than the expiration of the one-year period beginning on the date of the enactment of this Act, the Secretary of the Interior shall exercise the authority of that Secretary under section 3(a) of the Migratory Bird Treaty Act (16 U.S.C. 704(a)) to prescribe regulations to exempt the Armed Forces for the incidental taking of migratory birds during military readiness activities authorized by the Secretary of Defense or the Secretary of the military department concerned.

“(2) The Secretary of the Interior shall exercise authority under paragraph (1) with the concurrence of the Secretary of Defense.

“(e) LIMITATION ON JUDICIAL REVIEW.—An action seeking judicial review of regulations prescribed pursuant to this section or of the manner of their promulgation must be filed in the appropriate Federal court by not later than the expiration of the 120-day period beginning on the date on which such regulations are published in the Federal Register. Upon the expiration of such period and the exhaustion of any legal challenges to the regulations pursuant to any action filed in such period, there shall be no further judicial review of such regulations or of the manner of their promulgation.

“(f) MILITARY READINESS ACTIVITY.—(1) In this section the term ‘military readiness activity’ includes—

“(A) all training and operations of the Armed Forces that relate to combat; and

“(B) the adequate and realistic testing of military equipment, vehicles, weapons, and sensors for proper operation and suitability for combat use.

“(2) The term does not include—

“(A) the routine operation of installation operating support functions, such as administrative offices, military exchanges, commissaries, water treatment facilities, storage facilities, schools, housing, motor pools, laundries, morale, welfare, and recreation activities, shops, and mess halls;

“(B) the operation of industrial activities; or

“(C) the construction or demolition of facilities used for a purpose described in subparagraph (A) or (B).

ARCTIC TUNDRA HABITAT EMERGENCY CONSERVATION

‘SECTION 1. SHORT TITLE.

‘This Act may be cited as the ‘Arctic Tundra Habitat Emergency Conservation Act’.

‘SEC. 2. FINDINGS AND PURPOSES.

“(a) FINDINGS.—The Congress finds the following:

“(1) The winter index population of mid-continent light geese was 800,000 birds in 1969, while the total population of such geese is more than 5,200,000 birds today.

“(2) The population of mid-continent light geese is expanding by over 5 percent each year, and in the absence of new wildlife management actions it could grow to more than 6,800,000 breeding light geese in 3 years.

“(3) The primary reasons for this unprecedented population growth are—

“(A) the expansion of agricultural areas and the resulting abundance of cereal grain crops in the United States;

“(B) the establishment of sanctuaries along the United States flyways of migrating light geese; and

“(C) a decline in light geese harvest rates.

“(4) As a direct result of this habitat has been destroyed, one-third is on the brink of devastation, and the remaining one-third is overgrazed.

“(5) The destruction of the Arctic tundra is having a severe negative impact on many avian species that breed or migrate through this habitat, including the following:

“(A) Canada Goose.

“(B) American Wigeon.

“(C) Dowitcher.

“(D) Hudsonian Godwit.

“(E) Stilt Sandpiper.

“(F) Northern Shoveler.

“(G) Red-Breasted Merganser.

“(H) Oldsquaw.

“(I) Parasitic Jaeger.

“(J) Whimbrel.

“(K) Yellow Rail.

“(6) It is essential that the current population of mid-continent light geese be reduced by 50 percent by the year 2005 to ensure that the fragile Arctic tundra is not irreversibly damaged.

“(b) PURPOSES.—The purposes of this Act are the following:

“(1) To reduce the population of mid-continent light geese.

“(2) To assure the long-term conservation of mid-continent light geese and the biological diversity of the ecosystem upon which many North American migratory birds depend.

‘SEC. 3. FORCE AND EFFECT OF RULES TO CONTROL OVERABUNDANT MID-CONTINENT LIGHT GEESE POPULATIONS.

“(a) FORCE AND EFFECT.—

“(1) IN GENERAL.—The rules published by the Service on February 16, 1999, relating to use of additional hunting methods to increase the harvest of mid-continent light geese (64 Fed. Reg. 7507–7517) and the establishment of a conservation order for the reduction of mid-continent light geese populations (64 Fed. Reg. 7517–7520), shall have the force and effect of law.

“(2) PUBLIC NOTICE.—The Secretary, acting through the Director of the Service, shall take such action as is necessary to appropriately notify the public of the force and effect of the rules referred to in paragraph (1).

“(b) APPLICATION.—Subsection (a) shall apply only during the period that—

“(1) begins on the date of the enactment of this Act [Nov. 24, 1999]; and

“(2) ends on the latest of—

“(A) the effective date of rules issued by the Service after such date of the enactment to control overabundant mid-continent light geese populations;
§ 704. Determination as to when and how migratory birds may be taken, killed, or possessed

(a) Subject to the provisions and in order to carry out the purposes of the conventions, referred to in section 703 of this title, the Secretary of the Interior is authorized and directed, from time to time, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds, to determine when, to what extent, if at all, and by what means, it is compatible with the terms of the conventions to allow hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any such bird, or any part, nest, or egg thereof, and to adopt suitable regulations permitting and governing the same, in accordance with such determinations, which regulations shall become effective when approved by the President.

(b) It shall be unlawful for any person to—

(1) take any migratory game bird by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area; or

(2) place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting on or over the baited area.

(October 30, 1996, 112 Stat. 2956.)

AMENDMENTS

1998—Pub. L. 105–312 designated existing provisions as subsec. (a) and added subsec. (b).

1996—Act June 20, 1936, substituted “conventions” for “convention” in two places.

EFFECTIVE DATE OF 1936 AMENDMENT

Act June 20, 1936, ch. 634, §2, 49 Stat. 1556, provided in part that the amendment by section 2 is effective as of the day aforesaid (June 30, 1937). See note under section 703 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan. No. II of 1939, see Transfer of Functions note set out under section 701 of this title.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Interior of authority vested in President, see Ex. Ord. No. 10752, Feb. 12, 1958, 23 F.R. 973, set out as a note under section 715j of Title 15, Commerce and Trade.

Secretary of the Interior empowered to promulgate regulations under this section without approval, ratification, or other action of President, see section 2(b) of Ex. Ord. No. 10250, June 5, 1951, 16 F.R. 5385, set out as a note under section 301 of Title 3, The President.

REPORT ON EFFECTS OF 1998 AMENDMENTS

Pub. L. 105–312, title I, §104, Oct. 30, 1996, 112 Stat. 2956, provided that: “Not later than 5 years after the date of enactment of this Act (Oct. 30, 1998), the Secretary of the Interior shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources [now Committee on Natural Resources] of the House of Representatives a report analyzing the effect of the amendments made by section 2 (probably should be section 102, which amended this section), and the general practice of baiting, on migratory bird conservation and law enforcement efforts under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.) [16 U.S.C. 703 et seq.]”.

§ 705. Transportation or importation of migratory birds; when unlawful

It shall be unlawful to ship, transport, or carry, by any means whatever, from one State, Territory, or district to or through another State, Territory, or district, or to or through a foreign country, any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried at any time contrary to the laws of the State, Territory, or district in

(October 30, 1996, 112 Stat. 2956.)

AMENDMENTS

1998—Pub. L. 105–312 designated existing provisions as subsec. (a) and added subsec. (b).
which it was captured, killed, or taken, or from which it was shipped, transported, or carried. It shall be unlawful to import any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried contrary to the laws of any Province of the Dominion of Canada in which the same was captured, killed, or taken, or from which it was shipped, transported, or carried.


AMENDMENTS
1969—Pub. L. 91–135 repealed second par., which prohibited shipment of wild game mammals or parts thereof by any person of the United States to and from Mexico, except by permit from the Secretary of the Interior.

1939—Act June 20, 1939, inserted last sentence.

Effective Date of 1969 Amendment
Pub. L. 91–135, § 11, Dec. 5, 1969, 83 Stat. 282, provided that: “The provisions of sections 1 through 10 of this Act (enacting sections 668cc–1 to 668cc–6 of this title and amending this section, sections 851, 852, 852a, and 852d of this title, and sections 43, 44, 3054, and 3112 of Title 18, Crimes and Criminal Procedure) shall be effective one hundred and eighty days after the date of enactment of this Act (Dec. 5, 1969).”

Effective Date of 1939 Amendment
Act June 20, 1939, ch. 634, § 4, 49 Stat. 1556, provided in part that the amendment by section 4 is effective as of the day aforesaid (June 30, 1937). See note under section 703 of this title.

Transfer of Functions
Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939. See Transfer of Functions note set out under section 701 of this title.

§ 706. Arrests; search warrants
Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this subchapter shall have power, without warrant, to arrest any person committing a violation of this subchapter in his presence or view and to take such person immediately for examination or trial before an officer or court of competent jurisdiction for the enforcement of the provisions of this subchapter; and shall have authority, with a search warrant, to search any place. The several judges of the courts established under the laws of the United States, and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All birds, or parts, nests, or eggs thereof, captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this subchapter or of any regulation prescribed thereunder, shall be forfeited to the United States and disposed of by the Secretary of the Interior in such manner as he deems appropriate.


AMENDMENTS
1978—Pub. L. 95–616 made provisions respecting seizures and judgment of court applicable to birds, or parts, nests, or eggs sold or offered for sale, bartered or offered for barter, purchased, imported and exported and substituted “any regulation prescribed thereunder” in two places for “any regulations made pursuant thereto” and “any regulation made pursuant thereto” and provision for disposition of the birds, etc., by Secretary of the Interior in such manner as he deems appropriate for prior provision for such disposition as directed by court having jurisdiction.

Change of Name
“United States magistrate judges” substituted in text pursuant to section 631 of Title 28, Judiciary and Judicial Procedure. Previously, “United States magistrates” substituted in text for “United States commissioners” pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

Transfer of Functions
Enforcement functions of Secretary or other official in Department of the Interior related to compliance with protection of certain birds under 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), 293(a), 44 F.R. 33663, 33666, 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 713b 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(1) of Title 15. Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939. See Transfer of Functions note set out under section 701 of this title.

§ 707. Violations and penalties; forfeitures
(a) Except as otherwise provided in this section, any person, association, partnership, or corporation who shall violate any provisions of said conventions or of this subchapter, or who shall violate or fail to comply with any regulation made pursuant to this subchapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $15,000 or be imprisoned not more than six months, or both.
§ 708. State or Territorial laws or regulations

(b) Whoever, in violation of this subchapter, shall knowingly—

(1) take by any manner whatsoever any migratory bird with intent to sell, offer to sell, barter or offer to barter such bird, or

(2) sell, offer for sale, barter or offer to barter, any migratory bird shall be guilty of a felony and shall be fined not more than $2,000 or imprisoned not more than two years, or both.

(c) Whoever violates section 704(b)(2) of this title shall be fined under title 18, imprisoned not more than 1 year, or both.

(d) All guns, traps, nets and other equipment, vessels, vehicles, and other means of transportation used by any person when engaged in pursuing, hunting, taking, trapping, ensnaring, capturing, killing, or attempting to take, capture, or kill any migratory bird in violation of this subchapter with the intent to offer for sale, or sell, or offer for barter, or barter such bird in violation of this subchapter shall be forfeited to the United States and may be seized and held pending the prosecution of any person arrested for violating this subchapter and upon conviction for such violation, such forfeiture shall be adjudicated as a penalty in addition to any other provided for violation of this subchapter. Such forfeited property shall be disposed of and accounted for by, and under the authority of, the Secretary of the Interior.

(1936—Act June 20, 1936, substituted “conventions” for “convention”.

§ 709a. 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 said conventions and of this subchapter. Such funds available under this subchapter shall be used to carry out the purposes of said conventions and of this subchapter and regulations made pursuant thereto, and the Secretary of the Interior is authorized out of such moneys to employ in the city of Washington and elsewhere such persons and means as he may deem necessary for such purpose and may cooperate with local authorities in the protection of migratory birds and make the necessary investigations connected therewith.

(1936—Act June 20, 1936, substituted “conventions” for “convention”.

Effective Date of 1936 Amendment

Act June 20, 1936, ch. 634, § 49 Stat. 1556, provided in part that the amendment by section 2 is effective as of the day aforesaid (June 30, 1937). See note under section 703 of this title.

§ 709a. 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 and to accomplish the purposes of said conventions and of this subchapter and regulations made pursuant thereto, and the Secretary of the Interior is authorized out of such moneys to employ in the city of Washington and elsewhere such persons and means as he may deem necessary for such purpose and may cooperate with local authorities in the protection of migratory birds and make the necessary investigations connected therewith.

(1936—Act June 20, 1936, ch. 634, § 49 Stat. 1556, provided in part that the amendment by section 2 is effective as of the day aforesaid (June 30, 1937). See note under section 703 of this title.

Transfer of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 706 of this title.

§ 708. State or Territorial laws or regulations

Nothing in this subchapter shall be construed to prevent the several States and Territories from making or enforcing laws or regulations not inconsistent with the provisions of said conventions or of this subchapter, or from making or enforcing laws or regulations which shall give further protection to migratory birds, their nests, and eggs, if such laws or regulations do not extend the open seasons for such birds beyond the dates approved by the President in accordance with section 704 of this title.

(July 3, 1918, ch. 128, § 7, 40 Stat. 756; June 20, 1936, ch. 634, § 2, 49 Stat. 1556.)

Amendments

1936—Act June 20, 1936, substituted “conferences” for “convention”.

Effective Date of 1936 Amendment

Act June 20, 1936, ch. 634, § 49 Stat. 1556, provided in part that the amendment by section 2 is effective as of the day aforesaid (June 30, 1937). See note under section 703 of this title.

§ 709a. 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 and to accomplish the purposes of said conventions and of this subchapter and regulations made pursuant thereto, and the Secretary of the Interior is authorized out of such moneys to employ in the city of Washington and elsewhere such persons and means as he may deem necessary for such purpose and may cooperate with local authorities in the protection of migratory birds and make the necessary investigations connected therewith.

(1936—Act June 20, 1936, ch. 634, § 49 Stat. 1556, provided in part that the amendment by section 2 is effective as of the day aforesaid (June 30, 1937). See note under section 703 of this title.

Transfer of Functions

For transfer of certain enforcement functions of Secretary or other official in Department of the Interior under this subchapter to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, and subsequent transfer to Secretary of Energy, then to Federal Coordinator for Alaska Natural Gas Transportation Projects, see Transfer of Functions note set out under section 706 of this title.

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

Effective Date

Act June 20, 1936, ch. 634, § 49 Stat. 1556, provided in part that this section is effective as of the day aforesaid (June 30, 1937). See Effective Date of 1936 Amendment note set out under this title.
§ 710. Partial invalidity; short title

If any clause, sentence, paragraph, or part of this subchapter, which shall be known by the short title of the "Migratory Bird Treaty Act", shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

(July 3, 1918, ch. 128, §§1, 10, 40 Stat. 755, 757.)

CODIFICATION

The provisions of this section relating to short title are from section 10 of that act.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–447, div. E, title I, § 143(a), Dec. 8, 2004, 118 Stat. 3071, provided that: "This section [amending sections 704 and 705 of this title and enacting provisions set out as notes under section 705 of this title] may be cited as the 'Migratory Bird Treaty Reform Act of 2004'."

SHORT TITLE OF 1998 AMENDMENT


§ 711. Breeding and sale for food supply

Nothing in this subchapter shall be construed to prevent the breeding of migratory game birds on farms and preserves and the sale of birds so bred under proper regulation for the purpose of increasing the food supply.

(July 3, 1918, ch. 128, §12, 40 Stat. 757.)

§ 712. Treaty and convention implementing regulations; seasonal taking of migratory birds for essential needs of indigenous Alaskans to preserve and maintain stocks of the birds; protection and conservation of the birds

(1) In accordance with the various migratory bird treaties and conventions with Canada, Japan, Mexico, and the Union of Soviet Socialist Republics, the Secretary of the Interior is authorized to issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.

(2) The Secretary of the Interior is authorized to issue such regulations as may be necessary to implement the provisions of the convention between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the convention between the United States and the Government of Japan for the protection of migratory birds in danger of extinction, and their environment concluded March 4, 1972, and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environment concluded November 19, 1976.

(Pub. L. 95–616, §3(h)(2), (3), Nov. 8, 1978, 92 Stat. 3112.)

CODIFICATION

Par. (1) of section 3(h) of Pub. L. 95–616 amended section 706 of this title. Pars. (2) and (3) of such section 3(h) were redesignated (1) and (2) for codification purposes.

Section was enacted as part of the Fish and Wildlife Improvement Act of 1978, and not as part of the Migratory Bird Treaty Act which comprises this subchapter.

SUBCHAPTER III—MIGRATORY BIRD CONSERVATION

§ 715. Short title

This subchapter shall be known by the short title of "Migratory Bird Conservation Act."

(Feb. 18, 1929, ch. 257, §1, 45 Stat. 1222.)

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–215, §1, Feb. 17, 1976, 90 Stat. 189, provided: "That this Act [amending sections 668dd, 715a, 715k–3, 715k–5, 718a, 718b, and 718d of this title] may be cited as the 'Wetlands Loan Extension Act of 1976'."

§ 715a. Migratory Bird Conservation Commission; creation; composition; duties; approval of areas of land and water recommended for purchase or rental

A commission to be known as the Migratory Bird Conservation Commission, consisting of the Secretary of the Interior, as chairman, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and two Members of the Senate, to be selected by the President of the Senate, and two Members of the House of Representatives to be selected by the Speaker, is created and authorized to consider and pass upon any area of land, water, or land and water that may be recommended by the Secretary of the Interior for purchase or rental under this subchapter, and to fix the price or prices at which such area may be purchased or rented; and no purchase or rental shall be made of any such area until it has been duly approved for purchase or rental by said commission. Any Member of the House of Representatives who is a member of the commission, if reelected to the succeeding Congress, may serve on the commission notwithstanding the expiration of a Congress. Any vacancy on the commission shall be filled in the same manner as the original appointment. The ranking officer of the branch or department of a State to which is committed the administration of its game laws, or his authorized representative, and in a State having no such branch or department, the governor thereof, or his authorized representative, shall be a member ex officio of said commission for the purpose of considering and voting on all questions relating to the acquisition, under this subchapter, of areas in his State. For purposes of this subchapter, the purchase or rental of any area of land, water, or land and water includes...
the purchase or rental of any interest in any such area of land, water, or land and water.


**AMENDMENTS**

1968—Pub. L. 101-233 substituted “Administrator of the Environmental Protection Agency” for “Secretary of Transportation”.

1976—Pub. L. 94-215 inserted provision including in the purchase or rental of any area of land, water, or land and water the purchase or rental of any interest in any such area of land, water, or land and water.

1968—Pub. L. 90-261 substituted the Secretary of Transportation for the Secretary of Commerce in the membership of the Commission.

**TRANSFER OF FUNCTIONS**

Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, transferred functions of Secretary of Agriculture relating to conservation of wildlife, game, and migratory birds to Secretary of the Interior, and provided that Secretary of the Interior should be chairman of Migratory Bird Conservation Commission and that Secretary of Agriculture should be a member thereof.

§ 715b. Annual report

The commission created by section 715a of this title shall, through its chairman, annually report in detail to Congress, not later than the first Monday in December, the operations of the commission during the preceding fiscal year.

(1929, ch. 257, § 3, 45 Stat. 1223.)

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which a report required under this section is listed on page 177), see section 3003 of Pub. L. 101-233, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 715c. Areas recommended for approval; character

The Secretary of the Interior may not recommend any area for purchase or rental under the terms of this subchapter unless the Secretary of the Interior—

(1) has determined that such area is necessary for the conservation of migratory birds; and

(2) has consulted with the county or other unit of local government in which such area is located and with the Governor of the State concerned or the appropriate State agency.


**AMENDMENTS**

1978—Pub. L. 95-616 incorporated existing provisions in pars. (1) and (2) and cls. (A) and (B), made provisions applicable to interests in approved areas, and inserted authority for purchase or acquisition for other management purposes.

**TRANSFER OF FUNCTIONS**

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.


Sections, act June 15, 1935, ch. 261, title III, §§ 302, 303, 49 Stat. 382, provided for acceptance of land in exchange for other land or timber, etc. rights and for acceptance of land in exchange for patent to nonmineral public land. See section 668dd(b)(3) of this title.

**§ 715d-3. Omitted**

CODIFICATION

Section, act June 15, 1935, ch. 261, title V, § 501, 49 Stat. 383, authorized President to allocate out of appropriation made to him by resolution of April 8, 1925, a sum for acquisition of areas for bird sanctuaries and refuges.

§ 715e. Examination of title; easements and reservations

The Secretary of the Interior may do all things and make all expenditures necessary to secure the safe title in the United States to the areas which may be acquired under this subchapter, but no payment shall be made for any
such areas until the title thereto shall be satisfactory to the Attorney General or his designee, but the acquisition of such areas by the United States shall in no case be defeated because of rights-of-way, easements, and reservations which from their nature will in the opinion of the Secretary of the Interior in no manner interfere with the use of the areas so encumbered for the purposes of this subchapter, but such rights-of-way, easements, and reservations retained by the grantor or lessor from whom the United States receives title under this subchapter or any other Act for the acquisition by the Secretary of the Interior of areas for wildlife refuges shall be subject to rules and regulations prescribed by the Secretary of the Interior for the occupation, use, operation, protection, and administration of such areas as inviolate sanctuaries for migratory birds or as refuges for wildlife; and it shall be expressed in the deed or lease that the use, occupation, and operation of such rights-of-way, easements, and reservations shall be subordinate to and subject to such rules and regulations as are set out in such deed or lease or, if deemed necessary by the Secretary of the Interior, to such rules and regulations as may be prescribed by him from time to time.

1973—Pub. L. 93–205 substituted ''or his designee'' after ''Attorney General''.
1935—Act June 15, 1935, inserted ''said sections or any other Act for the acquisition by the Secretary of Agriculture of areas for wildlife refuges'' and ''as refuges for wildlife'', and inserted clause beginning ''as are set out in such deed or lease or, if deemed necessary'' etc.

Transfer of Functions
Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

§ 715e–1. Omitted

Codification

§ 715f. Consent of State to conveyance in fee

No deed or instrument of conveyance in fee shall be accepted by the Secretary of the Interior under this subchapter unless the State in which the area lies shall have consented by law to the acquisition by the United States of lands in that State.

1994—Pub. L. 103–434 inserted ''in fee'' after ''conveyance''.

Amendments
1973—Subsec. (a). Pub. L. 93–265 substituted ''listed pursuant to section 1533 of this title as endangered species or threatened species,'' for ''threatened with extinction,''.
1966—Subsecs. (a), (b). Pub. L. 89–669 added subsecs. (a) and (b). Former paragraph prohibited acts on acquired areas and is now covered by section 668dd(c) and (d) of this title.

Transfer of Functions
Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 715a of this title.

§ 715g. Jurisdiction of State over areas acquired

The jurisdiction of the State, both civil and criminal, over persons upon areas acquired under this subchapter shall not be affected or changed by reason of their acquisition and administration by the United States as migratory-bird reservations, except so far as the punishment of offenses against the United States is concerned.

1966—Subsec. (a). Pub. L. 90–669 added subsec. (a). Former paragraph prohibited acts on acquired areas and is now covered by section 668dd(c) and (d) of this title.

§ 715h. Operation of State game laws

Nothing in this subchapter is intended to interfere with the operation of the game laws of the several States applying to migratory game birds insofar as they do not permit what is forbidden by Federal law.

Amendments
1973—Subsec. (a). Pub. L. 93–205 substituted ''also'' for ''also;''.
1938—Subsec. (a). Act June 25, 1938, substituted ''a person not owning or occupying the area'' for ''a person owning or occupying the area'','' for ''the Secretary is authorized to determine'' for ''the owner of the area'',' and inserted clause beginning ''as a result of''.
1935—Subsec. (a). Act June 15, 1935, inserted ''as he may deem advisable'' after ''United States''; substituted ''National Wildlife Refuge'' for ''National Wildlife Refuge''.
1932—Subsec. (a). Act May 12, 1932, inserted ''as he may deem advisable'' after ''United States''; substituted ''National Wildlife Refuge'' for ''National Wildlife Refuge''.
1929—Subsec. (a). Pub. L. 66–294 inserted ''so far as is necessary to conserve and protect migratory birds'' after ''their habitat''.

§ 715i. Administration

(a) Treaty obligations; rules and regulations

Areas of lands, waters, or interests therein acquired or reserved pursuant to this subchapter shall, unless otherwise provided by law, be administered by the Secretary of the Interior under rules and regulations prescribed by him to conserve and protect migratory birds in accordance with treaty obligations with Mexico, Canada, Japan, and the Union of Soviet Socialist Republics, and other species of wildlife found thereon, including species that are listed pursuant to section 1533 of this title as endangered species or threatened species, and to restore or develop adequate wildlife habitat.

(b) Management and public and private agency agreements authorization

In administering such areas, the Secretary is authorized to manage timber, range, and agricultural crops; to manage other species of animals, including but not limited to fenced range animals, with the objectives of perpetuating, distributing, and utilizing the resources; and to enter into agreements with public and private agencies.

Amendments
1978—Pub. L. 95–616 substituted ''the several States applying to migratory game birds'' for ''migratory game birds'' in subsec. (a).
1973—Subsec. (a). Pub. L. 93–205 substituted ''also'' for ''also;''.
1938—Subsec. (a). Act June 25, 1938, inserted ''as a result of'' after ''the acquisition and administration by the United States of lands in that State''; inserted clause beginning ''as he may deem advisable'' after ''United States''.
1935—Subsec. (a). Act June 15, 1935, inserted ''as he may deem advisable'' after ''United States''; substituted ''National Wildlife Refuge'' for ''National Wildlife Refuge''.
1932—Subsec. (a). Act May 12, 1932, inserted ''as he may deem advisable'' after ''United States''; substituted ''National Wildlife Refuge'' for ''National Wildlife Refuge''.
1929—Subsec. (a). Pub. L. 66–294 inserted ''so far as is necessary to conserve and protect migratory birds'' after ''their habitat''.

Amendments
1978—Pub. L. 95–616 substituted ''the several States applying to migratory game birds'' for ''migratory game birds'' in subsec. (a).
1973—Subsec. (a). Pub. L. 93–205 substituted ''also'' for ''also;''.
1938—Subsec. (a). Act June 25, 1938, inserted ''as a result of'' after ''the acquisition and administration by the United States of lands in that State''; inserted clause beginning ''as he may deem advisable'' after ''United States''.
1935—Subsec. (a). Act June 15, 1935, inserted ''as he may deem advisable'' after ''United States''; substituted ''National Wildlife Refuge'' for ''National Wildlife Refuge''.
1932—Subsec. (a). Act May 12, 1932, inserted ''as he may deem advisable'' after ''United States''; substituted ''National Wildlife Refuge'' for ''National Wildlife Refuge''.
1929—Subsec. (a). Pub. L. 66–294 inserted ''so far as is necessary to conserve and protect migratory birds'' after ''their habitat''.

Amendments
1978—Pub. L. 95–616 substituted ''the several States applying to migratory game birds'' for ''migratory game birds'' in subsec. (a).
1973—Subsec. (a). Pub. L. 93–205 substituted ''also'' for ''also;''.
1938—Subsec. (a). Act June 25, 1938, inserted ''as a result of'' after ''the acquisition and administration by the United States of lands in that State''; inserted clause beginning ''as he may deem advisable'' after ''United States''.
1935—Subsec. (a). Act June 15, 1935, inserted ''as he may deem advisable'' after ''United States''; substituted ''National Wildlife Refuge'' for ''National Wildlife Refuge''.
1932—Subsec. (a). Act May 12, 1932, inserted ''as he may deem advisable'' after ''United States''; substituted ''National Wildlife Refuge'' for ''National Wildlife Refuge''.
1929—Subsec. (a). Pub. L. 66–294 inserted ''so far as is necessary to conserve and protect migratory birds'' after ''their habitat''.
§ 715k. “Migratory birds” defined


References in Text

The Migratory Bird Treaty Act, referred to in text, is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of this chapter. For complete classification of this Act to the Code, see section 713a of this title.

Amendments


§ 715k–1. Expenditures for personal services

In the execution of this Act, the Secretary of the Interior is authorized to make such expenditures for personal services in the District of Columbia and elsewhere as he shall deem necessary.

References in Text

This Act, referred to in text, probably means the act of June 15, 1935, ch. 261, 49 Stat. 378, as amended, which is classified in part to certain sections of this subchapter and of subchapter IV of this chapter. For complete classification of this Act to the Code, see Tables.

Codification

This Act, referred to in text, probably means the act of June 15, 1935, ch. 261, 49 Stat. 378, as amended, which is classified in part to certain sections of this subchapter and of subchapter IV of this chapter. For complete classification of this Act to the Code, see Tables.
Section was not enacted as part of the Migratory Bird Conservation Act which comprises this subchapter.

**Transfer of Functions**

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 71a of this title.

§ 715k–2. Omitted

**Codification**


§ 715k–3. Authorization of appropriations for the preservation of wetlands and other waterfowl habitat

In order to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of important wetlands and other waterfowl habitat essential to the preservation of such waterfowl, there is authorized to be appropriated for the period beginning on July 1, 1961, and ending when all amounts authorized to be appropriated have been expended, not to exceed $200,000,000.


**Codification**

Section was not enacted as part of the Migratory Bird Conservation Act which comprises this subchapter.

**AMENDMENTS**

1986—Pub. L. 99–645 struck out first three sentences which read as follows: “Funds appropriated pursuant to sections 715k–3 to 715k–5 of this title shall be treated as an advance, without interest, to the migratory bird conservation fund. Such appropriated funds, beginning on October 1, 1986, shall be repaid to the Treasury out of the migratory bird conservation fund, such repayment shall be made in annual amounts comprising 75 per centum of the moneys accruing annually to such fund. In the event the full amount authorized by section 715k–3 of this title is appropriated before October 1, 1986, the repayment of such funds pursuant to this section shall begin with the next full fiscal year.”


1967—Pub. L. 90–205 made minor structural changes and substituted “1977” for “1969” and “fifteen-year period” for “seven-year period”.


Sections, act Feb. 18, 1929, ch. 257, §§ 13, 14, 45 Stat. 1225, related to: execution of provisions, powers and duties of United States judges, commissioners and employees of Department of the Interior; and penalty for violation of provisions. See section 668dd(f) and (e) of this title, respectively.

§ 715n. “Take” defined

For the purposes of this subchapter the word “take” shall be construed to mean pursue, hunt, shoot, capture, collect, or kill, unless the context otherwise requires.

(21 Stat. 222.)

§ 715o. National forest and power sites; use for migratory bird reservations

Nothing in this subchapter shall be construed as authorizing or empowering the Migratory

1 See section 668dd(f) and (e) of the Migratory Bird Conservation Act of 1929, as amended, for a definition of “take”.

1 So in original. Probably should be capitalized.
§ 715s. Participation of local governments in revenue from areas administered by the United States Fish and Wildlife Service

(a) Separate fund in the United States Treasury; availability of funds until expended; “National Wildlife Refuge System” defined

Beginning with the next full fiscal year and for each fiscal year thereafter, all revenues received by the Secretary of the Interior from the sale or other disposition of animals, salmonoid carcasses,\(^1\) timber, hay, grass, or other products of the soil, minerals, shells, sand, or gravel, from other privileges, or from leases for public accommodations or facilities incidental to but not in conflict with the basic purposes for which those areas of the National Wildlife Refuge System were established, during each fiscal year in connection with the operation and management of those areas of the National Wildlife Refuge System, National Fish Hatcheries, or other areas, that are solely or primarily administered by him, through the United States Fish and Wildlife Service, shall be covered into the United States Treasury and be reserved in a separate fund for disposition as hereafter prescribed. Amounts in the fund shall remain available until expended, and may be expended by the Secretary without further appropriation in the manner hereafter prescribed. The National Wildlife Refuge System (hereafter referred to as the “System”) includes those lands and waters administered by the Secretary as wildlife refuges, lands acquired or reserved for the protection and conservation of fish and wildlife that are listed pursuant to section 1533 of this title as endangered species or threatened species, wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas established under any law, proclamation, Executive, or public land order.

(b) Deduction of expenses

The Secretary may pay from the fund any necessary expenses incurred by him in connection with the revenue-producing and revenue-sharing measures.

(c) Payment to counties

(1) The Secretary shall pay out the fund, for each fiscal year beginning with the fiscal year ending September 30, 1979, to each county in which is situated any fee area whichever of the following amounts is greater:

(A) An amount equal to the product of 75 cents multiplied by the total acreage of that portion of the fee area which is located within such county.

(B) An amount equal to three-fourths of 1 per centum of the fair market value, as determined by the Secretary, of that portion of the fee area (excluding any improvements thereto made after the date of Federal acquisition) which is located within such county.

\(^1\) So in original. Probably should be “carcasses.”
(C) An amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such fee area during such fiscal year; but if a fee area is located in two or more counties, the amount each such county is entitled to shall be the amount which bears to such 25 per centum the same ratio as that portion of the fee area acreage which is within such county bears to the total acreage of such fee area.

(2) At the end of each fiscal year the Secretary shall pay out of the fund for such fiscal year to each county in which any reserve area is situated, an amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such area during such fiscal year: Provided, That when any such area is situated in more than one county the distributive share to each county from the aforesaid receipts shall be proportional to its acreage of such reserve area.

(3) For purposes of this section, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands shall each be treated as a county.

(4)(A) For purposes of determining the fair market value of fee areas under paragraph (1)(B), the Secretary shall—

(i) appraise before September 30, 1979, all fee areas for which payments under this section were not authorized for fiscal years occurring before October 1, 1977; and

(ii) appraise all other fee areas, within five years after October 1, 1978, in the order in which such areas were first established by the Service.

After initial appraisal under clause (i) or (ii), each fee area shall thereafter be reappraised by the Secretary at least once during each five-year period occurring after the date of the initial appraisal. Until any fee area referred to in clause (ii) is initially appraised under this subparagraph, the fair market value of such area shall be deemed to be that adjusted cost of the area which was used to determine payments under this subsection for fiscal year 1977; and in no case may the amount of any payment to any local government under paragraph (1)(B) with respect to any fee area be less than the amount paid under paragraph (2)(A) of this subsection (as in effect on September 30, 1977) with respect to such area.

(B) The Secretary shall make the determinations required under this subsection in such manner as the Secretary considers to be equitable and in the public interest. All such determinations shall be final and conclusive.

(5)(A) Each county which receives payments under paragraphs (1) and (2) with respect to any fee area or reserve area shall distribute, under guidelines established by the Secretary, such payments on a proportional basis to those units of local government (including, but not limited to, school districts and the county itself in appropriate cases) which have incurred the loss or reduction of real property tax revenues by reason of the existence of such area. In any case in which a unit of local government other than the county acts as the collecting and distributing agency for real property taxes, the payments under paragraphs (1) and (2) shall be made to such other unit which shall distribute the payments in accordance with the guidelines.

(B) The Secretary may prescribe regulations under which payments under this paragraph may be made to units of local government in cases in which subparagraph (A) will not effect the purposes of this paragraph.

(C) Payments received by units of local government under this subsection may be used by such units for any governmental purpose.

(d) Authorization of appropriations equal to difference between amount of net receipts and aggregate amount of required payments

If the net receipts in the fund which are attributable to revenue collections for any fiscal year do not equal the aggregate amount of payments required to be made for such fiscal year under subsection (c) to counties, there are authorized to be appropriated to the fund an amount equal to the difference between the total amount of net receipts and such aggregate amount of payments.

(e) Transfer and use of excess of net receipts over aggregate amount of required payments

If the net receipts in the fund which are attributable to revenue collections for any fiscal year exceed the aggregate amount of payments required to be made for such fiscal year under subsection (c) to counties, the amount of such excess shall be transferred to the Migratory Bird Conservation Fund for use in the acquisition of suitable areas for migratory bird refuges under the provisions of the Migratory Bird Conservation Act (16 U.S.C. 715–715r).

(f) Terms, conditions, and regulations for execution of revenue producing activities; disposal of animals

The Secretary shall carry out any revenue producing activity referred to in subsection (a)(1), (2), and (3) within any fee area or reserve area subject to such terms, conditions, or regulations, including sales in the open markets, as the Secretary determines to be in the best interest of the United States. The Secretary may, in accordance with such regulations as the Secretary may prescribe, dispose of animals which are surplus to any such area by exchange of the same or other kinds, gift or loan to public institutions for exhibition or propagation purposes, and for the advancement of knowledge and the dissemination of information relating to the conservation of wildlife.

(g) Definitions

As used in this section—

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

(2) The term “fee area” means any area which was acquired in fee by the United States and is administered, either solely or primarily, by the Secretary through the Service.

(3) The term “reserve area” means any area of land withdrawn from the public domain and administered, either solely or primarily, by the Secretary through the Service.

(4) The term “Service” means the United States Fish and Wildlife Service.

(5) The term “county” means any county, parish, or organized or unorganized borough.

REFERENCES IN TEXT

Beginning with the next full fiscal year and for each fiscal year thereafter, referred to in subsec. (a), probably means the next full fiscal year following Aug. 30, 1964, the date of enactment of Pub. L. 88–523, which amended this section.

The Migratory Bird Conservation Act, referred to in subsec. (e), is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, which is classified generally to this subchapter. For subsec. (e), is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, which is classified generally to this subchapter. For subsec. (e), is act Feb. 18, 1929, ch. 257, 45 Stat. 1222, which is classified generally to this subchapter.

The reference in subsec. (f) to “revenue producing activity referred to in subsection (a)” means the next full fiscal year following Aug. 30, 1964, the date of enactment of Pub. L. 88–523, which amended this section.

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

CODIFICATION

The reference in subsec. (f) to “revenue producing activity referred to in subsection (a)” is Act Feb. 18, 1929, ch. 257, 45 Stat. 1222, which is classified generally to this subchapter. For complete classification of this Act to the Code, see section 715 of this title and Tables.

The reference in subsec. (f) to ‘‘revenue producing activity referred to in subsection (a)’’ means the next full fiscal year following Aug. 30, 1964, the date of enactment of Pub. L. 88–523, which amended this section.

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

The reference in subsec. (f) to ‘‘revenue producing activity referred to in subsection (a)’’ means the next full fiscal year following Aug. 30, 1964, the date of enactment of Pub. L. 88–523, which amended this section.

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

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The reference in subsec. (f) to “revenue producing activity referred to in subsection (a)” means the next full fiscal year following Aug. 30, 1964, the date of enactment of Pub. L. 88–523, which amended this section.

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

MODIFICATIONS

The reference in subsec. (f) to “revenue producing activity referred to in subsection (a)” means the next full fiscal year following Aug. 30, 1964, the date of enactment of Pub. L. 88–523, which amended this section.

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

AMENDMENTS

1962—Subsec. (h). Pub. L. 87–358 struck out subsec. (h) which had provided for administration of payments to local governments for entitlement lands, reserve areas as entitlement lands, and payments received by any unit of local government to be deemed payments under specified provisions. See sections 6901 and 6903 of Title 31, Money and Finance.

1973—Subsec. (a). Pub. L. 92–359 substituted provisions which moneys remaining in the fund after all payments under this section are made for any fiscal year shall be transferred to the Migratory Bird Conservation Fund and shall be available for land acquisition under the Migratory Bird Conservation Act with exception that the funds available for the management of the National Wildlife Refuge System or for enforcement of the Migratory Bird Treaty Act shall not be diminished for provisions that moneys remaining in the fund after all payments are made for any fiscal year may be used by the Secretary thereafter for management of the System, including but not limited to the construction, improvement, repair, and alteration of buildings, roads, and other facilities, and for enforcement of the Migratory Bird Treaty Act.

1966—Subsec. (a). Pub. L. 89–696 defined the National Wildlife Refuge System to include lands acquired or reserved for the protection and conservation of fish and wildlife that are threatened with extinction.

1964—Pub. L. 88–523 substituted provisions designated as subsecs. (a) to (g) for former provisions constituting one paragraph consisting of a first clause with three provisos and a second clause required in subsec. (a) all receipts from the National Wildlife Refuge System to be covered into a separate fund in the United States Treasury, made the fund available until expended, provided for expenditures without further appropriation, and defined the National Wildlife Refuge System; incorporated the third proviso of the first clause and the second clause in subsec. (b) and the parenthetical matter of subsec. (c); incorporated in the reserved funds provision of subsec. (c) the formula of the first clause for returning twenty-five per centum of the net...
revenues from the System to the counties in which the producing refuges are located for the benefit of the public schools and roads therein; incorporated the first proviso of the first clause in subsec. (c)(1) proviso; substituted subsec. (c)(2) providing an option plan for payment of either 25 per centum of the net receipts from lands acquired in fee by the United States to the counties in which such acquired lands are located or three-fourths of 1 per centum of the adjusted cost of the acquired lands, whichever is higher, for the formula of the first clause for returning 25 per centum of the revenues; inserted provisions of subsections (d), (e), and (g); and incorporated the second proviso of the first clause in subsec. (f).


Effective Date of 1978 Amendment; Fiscal Year of Availability of Appropriation Authorization

Pub. L. 95–499, § 2, Oct. 17, 1978, 92 Stat. 1321, provided that: "The amendments made by this Act [amending this section and sections 1603, 1605 and 1606 of former Title 31, Money and Finance], shall apply with respect to the fiscal year ending September 30, 1980."

1978—Subsec. (b)(4) of this section, as added by Pub. L. 95–499, amended, in the title heading, to add provisions set out as section 485 of Title 40.

Effective Date of 1973 Amendment


Transfer of Functions

For transfer of functions of other officers, employees, and agencies of Department of Interior, with certain exceptions, to Secretary of Interior, see Reorg. Plan No. 3 of 1950, §§1, 2, etc., May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in Text ofsubtitle ofTitle 5, subchapter III, subchapter II, and section notes under this section; may be cited as the ‘Federal Duck Stamp Act of 2005.’

Subchapter IV—Hunting and Conservation Stamp Tax


Section, as added by Pub. L. 109–266, set out as section 120 Stat. 677, provided that: ‘‘This Act [amending sections 718a, 718b, and 718d of this title] may be cited as the ‘Federal Duck Stamp Act of 2004.’’

Short Title of 2006 Amendment

Pub. L. 109–266, § 1, Aug. 3, 2006, 120 Stat. 670, provided that: ‘‘This Act [amending sections 718a to 718f of this title, amending sections 718a to 718f of this title, repealing this section and former sections 718g, 718h, and 718i of this title, and enacting provisions set out as notes under this section] may be cited as the ‘Electronic Duck Stamp Act of 2005.’’

Short Title of 1998 Amendment


Short Title


Electronic Duck Stamp Pilot Program


‘‘(1) on March 16, 1934, Congress passed and President Roosevelt signed the Act of March 16, 1934 (16 U.S.C. 718a [718] et seq.) (popularly known as the ‘Duck Stamp Act’), which requires all migratory waterfowl hunters 16 years of age or older to buy a Federal migratory bird hunting and conservation stamp annually;

‘‘(2) the Federal Duck Stamp program has become one of the most popular and successful conservation programs ever initiated;

‘‘(3) because of that program, the United States again is teeming with migratory waterfowl and other wildlife that benefit from wetland habitats;

‘‘(4) as of the date of enactment of this Act [Aug. 3, 2006], 1,700,000 migratory bird hunting and conservation stamps are sold each year;

‘‘(5) as of 2003, those stamps have generated more than $650,000,000 in revenue that has been used to preserve more than 5,000,000 acres of migratory waterfowl habitat in the United States; and

‘‘(6) many of the more than 540 national wildlife refuges have been paid for wholly or partially with that revenue.

‘‘SEC. 3. DEFINITIONS.

‘‘In this Act [see Short Title of 2006 Amendment note above]:

‘‘(1) ACTUAL STAMP.—The term ‘actual stamp’ means a Federal migratory-bird hunting and conservation stamp required under the Act of March 16, 1934 (16 U.S.C. 718a [718] et seq.) (popularly known as the ‘Duck Stamp Act’), that is printed on paper and sold through a means in use immediately before the date of enactment of this Act [Aug. 3, 2006].

‘‘(2) AUTOMATED LICENSING SYSTEM.—

‘‘(A) IN GENERAL.—The term ‘automated licensing system’ means an electronic, computerized licensing system used by a State fish and wildlife agency to issue hunting, fishing, and other associated licenses and products.

‘‘(B) INCLUSION.—The term ‘automated licensing system’ includes a point-of-sale, Internet, or telephonic system used for a purpose described in subparagraph (A).

‘‘(3) ELECTRONIC STAMP.—The term ‘electronic stamp’ means an electronic version of an actual stamp that—
“(A) a unique identifier for the individual to whom it is issued;
“(B) can be printed on paper;
“(C) is issued through a State automated licensing system that is authorized, under State law and by the Secretary under this Act, to issue electronic stamps;
“(D) is compatible with the hunting licensing system of the State that issues the electronic stamp; and
“(E) is described in the State application approved by the Secretary under section 4(b).

‘SEC. 4. ELECTRONIC DUCK STAMP PILOT PROGRAM.
“(a) REQUIREMENT TO CONDUCT PROGRAM.—The Secretary shall conduct a 3-year pilot program under which up to 15 States authorized by the Secretary may issue electronic stamps.
“(b) COMMENCEMENT AND DURATION OF PROGRAM.—The Secretary shall—
“(1) use all means necessary to expeditiously implement this section by the date that is 1 year after the beginning of the first full Federal migratory waterfowl hunting season after the date of enactment of this Act [Aug. 3, 2006]; and
“(2) carry out the pilot program for 3 Federal migratory waterfowl hunting seasons.

‘SEC. 5. STATE APPLICATION.
“(a) APPROVAL OF APPLICATION REQUIRED.—A State may not participate in the pilot program under this Act unless the Secretary has received and approved an application submitted by the State in accordance with this section.

‘SEC. 6. STATE OBLIGATIONS AND AUTHORITIES.
“(a) DELIVERY OF ACTUAL STAMP.—The Secretary shall require that each individual to whom a State sells an electronic stamp under the pilot program shall receive an actual stamp—
“(1) by not later than the date on which the electronic stamp expires under section 7(c); and
“(2) in a manner agreed upon by the State and Secretary.

‘SEC. 7. ELECTRONIC STAMP REQUIREMENTS; RECOGNITION OF ELECTRONIC STAMP.
“(a) STAMP REQUIREMENTS.—The Secretary shall require an electronic stamp issued by a State under the pilot program—
“(1) to have the same format as any other license, validation, or privilege the State issues under the automated licensing system of the State; and
“(2) to specify identifying features of the licensee that are adequate to enable Federal, State, and other law enforcement officers to identify the holder.

‘SEC. 8. TERMINATION OF STATE PARTICIPATION.
“Participation by a State in the pilot program may be terminated—
“(1) by the Secretary, if the Secretary—
“(A) finds that the State has violated any of the terms of the application of the State approved by the Secretary under section 5; and
“(B) provides to the State written notice of the termination by not later than the date that is 30 days before the date of termination; or
“(2) by the State, by providing written notice to the Secretary by not later than the date that is 30 days before the termination date.

‘(b) COLLECTION AND TRANSFER OF ELECTRONIC STAMP REVENUE AND CUSTOMER INFORMATION.—
“(1) REQUIREMENT TO TRANSMIT.—The Secretary shall require each State participating in the pilot program to collect and submit to the Secretary in accordance with this section—
“(A) the first name, last name, and complete mailing address of each individual that purchases an electronic stamp from the State;
“(B) the face value amount of each electronic stamp sold by the State; and
“(C) the amount of the Federal portion of any fee required by the agreement for each stamp sold.

“(2) TIME OF TRANSMITTAL.—The Secretary shall require the submission under paragraph (1) to be made with respect to sales of electronic stamps by a State occurring in a month—
“(A) by not later than the 15th day of the subsequent month; or
“(B) as otherwise specified in the application of the State approved by the Secretary under section 5.

“(3) ADDITIONAL FEES NOT AFFECTED.—This section shall not apply to the State portion of any fee collected by a State under subsection (c).

“(c) ELECTRONIC STAMP ISSUANCE FEE.—A State participating in the pilot program may charge a reasonable fee to cover costs incurred by the State and the Department of the Interior in issuing electronic stamps under the program, including costs of delivery of actual stamps.

“(d) DUPLICATE ELECTRONIC STAMPS.—A State participating in the pilot program may issue a duplicate electronic stamp to replace an electronic stamp issued by the State that is lost or damaged.

“(e) LIMITATION ON AUTHORITY TO REQUIRE PURCHASE OF STATE LICENSE.—A State may not require that an individual purchase a State hunting license as a condition of issuing an electronic stamp under the pilot program.

(TITLE 16—CONSERVATION)
§ 718a. Prohibition on taking

(a) Prohibition

(1) In general

Except as provided in paragraph (2), no individual who has attained the age of 16 years shall take any migratory waterfowl unless, at the time of the taking, the individual carries on the person of the individual a valid Migratory Bird Hunting and Conservation Stamp, validated by the signature of the individual written in ink across the face of the stamp prior to the time of the taking by the individual of the waterfowl.

(2) Exception

No stamp described in paragraph (1) shall be required for the taking of migratory waterfowl:

(A) by Federal or State agencies;

(B) for propagation;

(C) by the resident owner, tenant, or sharecropper of the property, or officially designated agencies of the Department of the Interior, for the killing, under such restrictions as the Secretary may by regulation prescribe, of such waterfowl when found damaging crops or other property; or

(D) by a rural Alaska resident for subsistence uses (as that term is defined in section 3113 of this title).

(b) Display of stamp

Any individual to whom a stamp has been sold under this subchapter shall, upon request, display the stamp for inspection to—

(1) any officer or employee of the Department of the Interior who is authorized to enforce this subchapter; or

(2) any officer of any State or political subdivision of a State authorized to enforce State game laws.

(c) Other licenses

Nothing in this section requires any individual to affix the Migratory Bird Hunting and Conservation Stamp to any other license prior to taking 1 or more migratory waterfowl.


AMENDMENTS


1956—Act July 30, 1956, substituted “no person who has attained the age of sixteen years”, for “no person over sixteen years of age”. 1955—Act June 15, 1955, substituted “validated by his signature written by himself in ink across the face of the stamp prior to his taking such birds” for “issued to him in the manner hereinafter provided,” and struck out provisions which authorized the Secretary of Agriculture to adopt and promulgate regulations for the protection of private property in the injury of crops.

TRANSFER OF FUNCTIONS

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

§ 718b. Sales; fund disposition; unsold stamps

(a) Sales

(1) In general

The stamps required under section 718a of this title shall be sold by the Postal Service and may be sold by the Department of the Interior, pursuant to regulations promulgated jointly by the Postal Service and the Secretary, at—

(A) any post office; and

(B) such other establishments, facilities, or locations as the Postal Service or the Secretary (or a designee) may direct or authorize.

(2) Proceeds

The funds received from the sale of stamps under this subchapter by the Department of the Interior shall be deposited in the Migratory Bird Conservation Fund in accordance with section 718d of this title.

(3) Minimum and maximum values

Except as provided in subsection (b), the Postal Service shall collect the full face value of each stamp sold under this section for the applicable hunting year.

(4) Validity

No stamp sold under this subchapter shall be valid under any circumstances to authorize the taking of migratory waterfowl except—

(A) in compliance with Federal and State laws (including regulations);

(B) on the condition that the individual so taking the waterfowl wrote the signature of the individual in ink across the face of the stamp prior to the taking; and

(C) during the hunting year for which the stamp was issued.

(5) Unused stamps

(A) Definition of retail dealer

In this paragraph, the term “retail dealer” means—
(i) any individual or entity that is regularly engaged in the business of retailing hunting or fishing equipment; and
(ii) any individual or entity duly authorized to act as an agent of a State or political subdivision of a State for the sale of State or county hunting or fishing licenses.

(B) Redemption of unused stamps

The Department of the Interior, pursuant to regulations promulgated by the Secretary, shall provide for the redemption, on or before the 30th day of June of each year, of unused stamps issued for the year under this subchapter that—
(i) were sold on consignment to any person authorized by the Secretary to sell stamps on consignment (including retail dealers for resale to customers); and
(ii) have not been resold by any such person.

(6) Prohibition on certain stamp sales

The Postal Service shall not—
(A) sell on consignment any stamps issued under this subchapter to any individual, business, or organization; or
(B) redeem stamps issued under this subchapter that are sold on consignment by the Secretary (or any agent of the Secretary).

(b) Cost of stamps

The Postal Service shall collect $10.00 for each stamp sold under the provisions of this section for hunting years 1987 and 1988, $12.50 for hunting years 1989 and 1990, $15.00 for hunting years 1991 through 2013, and $25 for each hunting year thereafter.

(c) Reduction in price of stamp

The Secretary may reduce the price of each stamp sold under the provisions of this section for any hunting year if the Secretary determines that the increase in the price of the stamp after hunting year 2013 resulted in a reduction in revenues deposited into the fund.

(Amendments)

2014—Subsec. (b). Pub. L. 113–264, § 2(1), substituted “1990, $15.00 for hunting years 1991 through 2013, and $25 for each hunting year thereafter” for “1990, and $15.00 for each hunting year thereafter”.


Subsec. (a). Pub. L. 109–266, § 10(b), added subsec. (a) and struck out former subsec. (a) which related to issuance and sale of stamps, fund disposition, and unsold stamps.

Subsec. (b). Pub. L. 109–266, § 10(c)(4), which directed amendment of par. (2) by striking “For purposes” and “all that follows through “of any such year”,” was executed by striking “For purposes of this section, the term ‘hunting year’ means the 12-month period beginning on July 1 of any such year” at the end of the concluding provisions following par. (2), to reflect the probable intent of Congress.

Pub. L. 109–266, § 10(c)(5), inserted heading and substituted “Secretary” for “Secretary of the Interior” and “Migratory Bird Conservation Fund” for “migratory bird conservation fund” in introductory provisions.

1986—Subsec. (b). Pub. L. 99–465, § 202(1), (2), in introductory provisions, substituted “$10.00 for each stamp sold under the provisions of this section for hunting years 1987 and 1988, $12.50 for hunting years 1989 and 1990, and $15.00 for each hunting year thereafter” for “$7.50 for each stamp sold under the provisions of this section for any hunting year if”.


Pub. L. 95–532, § 1(1), (2), designated existing provisions as subsec. (a), inserted in third sentence introductory text “Except as provided in subsection (b) of this section,” and “for any hunting year” before “there shall be collected”.


1976—Pub. L. 94–273 substituted “the year” for “the fiscal year” and “each year” for “each fiscal year”.

Pub. L. 94–273 authorized sale of stamps by the Department of the Interior, substituted provision for prescription of regulations jointly by the Postal Service and the Secretary of the Interior for prior provision for such prescription by the Postal Service and provision for sale of stamps at any establishment, facility, or location as the Postal Service and the Secretary of the Interior shall direct and authorize for prior provision for sale of stamps at such post offices other than first- and second-class post offices as the Postal Service shall direct and inserted provision respecting deposit of funds from sale of stamps by the Department of the Interior in the migratory bird conservation fund; and substituted “September” for “June” in relation to redemption of blocks of stamps, designated existing provisions as cl. (A) and (B), and substituted “consignee to any person, including, but not limited to, “retail dealers” for “consignee to retail dealers” in cl. (A) and “by any such person” for “by such dealers” in cl. (B), respectively.

1971—Pub. L. 92–214 substituted “Postal Service” for “Post Office Department” and “Postmaster General” and inserted provisions authorizing the collection of up to $5 for each stamp sold to be determined by the Secretary after taking into consideration, among other matters, the increased cost of lands needed for the conservation of migratory birds.


1956—Act July 30, 1956, § 2, struck out in existing next to last sentence requirement that stamps remaining
unsold by the Post Office Department subsequent to be-
coming void by the 30th day of June next succeeding
issue be destroyed, substituted provisions in exist-
ing last sentence relating to redemption of blocks of
unused stamps sold on consignment to retail dealers for
resale to their customers, for provisions prohibiting the
redemption by the Department in cash or kind of
stamps sold under this Act, and inserted sentence de-
fining “retail dealers”. For further amendment of next
to last sentence of this section, see section 3(c) of act
July 30, 1956, set out below.
Act July 30, 1956, §3(c), formerly §3(b), as renumbered
by Pub. L. 109–266, §10(i)(1), substituted provisions in
fourth sentence authorizing use as migratory-bird
stamps only during fiscal year for which issued, for pro-
visions requiring stamps to expire and be void after the
30th day of June next succeeding issuance. Amendment
of fourth sentence by section 3(c) further amends
amendments made to next to last sentence by section 2
of act July 30, 1956, as set out above.
1949—Act Aug. 12, 1949, increased cost of stamp from
$1 to $2.

Effective Date of 1958 Amendment
Pub. L. 85–585, §4, Aug. 1, 1958, 72 Stat. 487, provided that:
“... The amendment made by the first section of this
Act [amending this section] shall become effective on
July 1, 1959. The amendment made by section 2 of this
Act [amending section 718d of this title] making available the
net proceeds of all moneys received in the migratory
bird conservation fund for the location, acquisi-
tion, and acquisition of Waterfowl Production Areas
and suitable areas for migratory bird refuges shall
become effective on July 1, 1960. The remaining
amendments made by this Act [amending section 718d
of this title] shall become effective on the date of the
enactment of this Act [Aug. 1, 1958]. Any unobligated
balance remaining in the migratory bird conservation
fund on June 30, 1960, shall thereafter be available for
expenditure only for the purposes specified in the Mi-
gratory Bird Hunting and Conservation Stamp Act [now Migratory
Bird Hunting and Conservation Stamp Act] of March 16, 1934
[this subchapter], as amended by this Act."

Spending of Stamp Money
Act Aug. 12, 1949, ch. 421, §1, 63 Stat. 599, provided in part:
“... That the moneys derived from the sale of such
stamps shall be spent only upon specific appropriation
by the Congress."

§ 718b–1. Disposition of unsold stamps

(a) Disposition of unsold stamps

A Migratory Bird Hunting and Conservation
Stamp shall be transferred to the Postal Service or
the Secretary of the Interior (or a designee) for
sale to a collector if the stamp—
(1) has not been sold by the end of the hunt-
ing year (as that term is defined in section 718j
of this title) during which the stamp is issued; and
(2) as determined by the Postal Service or the
Secretary of the Interior—
(A) is appropriate to supply a market for
sale to collectors; and
(B) is in suitable condition for sale to a
collector.

(b) Surplus stock

The Postal Service or the Secretary of the Inter-
ior may destroy any surplus stock of Migrat-
ory Bird Hunting and Conservation Stamps at
such time and in such manner as the Postal
Service or the Secretary of the Interior deter-
mines to be appropriate.

(July 30, 1956, ch. 782, §3(a), (b), formerly §3(a),
Stat. 777; renumbered §3(a), (b) and amended
679.)

Codification
Section was not enacted as part of act Mar. 16, 1934,
which comprises this subchapter.

Prior Provisions
A prior section 3(b) of act July 30, 1956, ch. 782, 70
Stat. 722, amended section 718b of this title prior to being redesignated 3(c) by section 10(i)(1) of Pub. L.
109–266.

Amendments
2006—Pub. L. 109–266 inserted section catchline and
substituted subsec. (a) and (b) for former text which
read: “On or after July 30, 1956, such quantity of migrat-
ory-bird hunting stamps, not sold at the end of the fi-
cal year for which issued, as determined by the Postal
Service to be (1) required to supply the market for sale
to collectors, and (2) in suitable condition for such sale
to collectors, shall be turned over to the Philatelic
Agency and therein placed on sale. Any surplus stock
of such migratory-bird hunting stamps may be de-
stroyed in such manner as the Postal Service shall di-
rect.”
1971—Pub. L. 92–214 substituted “Postal Service” for
“Postmaster General”.

§ 718c. Authorization and exemption

Nothing in this subchapter shall be construed to
authorize any person to take any migratory
waterfowl otherwise than in accordance with
regulations adopted and approved pursuant to
any treaty or convention heretofore or hereafter
entered into between the United States and any
other country for the protection of migratory
birds, nor to exempt any person from complying
with the game laws of the several States.

(Mar. 16, 1934, ch. 71, §3, 48 Stat. 451; Pub. L.
95–616, §7(b), Nov. 8, 1978, 92 Stat. 3114; Pub. L.
109–266, §10(d), Aug. 3, 2006, 120 Stat. 675.)

Amendments
1978—Pub. L. 95–616 inserted “or convention” after
“treaty”.

§ 718d. Expenditure of funds

(a) In general

All funds received for stamps sold under this
subchapter shall be—
(1) accounted for by the Postal Service or the
Secretary, as appropriate;
(2) paid into the Treasury of the United
States; and
(3) reserved and set aside as a special fund,
to be known as the “Migratory Bird Conserva-
tion Fund” (referred to in this section as the
“fund”), to be administered by the Secretary,
in which there shall be a subaccount to which
the Secretary of the Treasury shall transfer
all amounts in excess of $15 that are received
from the sale of each stamp sold for each
hunting year after hunting year 2013.

(b) Use of funds

All funds received into the fund are appro-
priated for the following purposes, to remain
available until expended:

(1) Advance allotments

Except as provided in paragraph (4), so much
as may be necessary shall be used by the Sec-
retary for engraving, printing, issuing, selling, and accounting for Migratory Bird Hunting and Conservation Stamps and moneys received from the sale thereof, in addition to expenses for personnel services in the District of Columbia and elsewhere, and such other expenses as may be necessary in executing the duties and functions required of the Postal Service.

(2) Areas for refuges

Except as provided in paragraphs (3) and (4) and subsection (c), the remainder shall be available for the location, ascertainment, and acquisition of suitable areas for migratory bird refuges under the provisions of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and for the administrative costs incurred in the acquisition of such areas.

(3) Conditions on use of funds

The Secretary may use funds made available under paragraph (2) for the purposes of that paragraph, and such other funds as may be appropriated for the purposes of that paragraph or this paragraph, to acquire, or defray the expense incident to the acquisition by gift, devise, lease, purchase, or exchange of, small wetland and pothole areas, interests therein, and rights-of-way to provide access thereto. Such small areas, to be designated as “Waterfowl Production Areas”, may be acquired without regard to the limitations and requirements of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.), but all of the provisions of such Act which govern the administration and protection of lands acquired thereunder, except the inalienable sanctuary provisions of such Act, shall be applicable to areas acquired pursuant to this paragraph.

(4) Conservation easements

Amounts in the subaccount referred to in subsection (a)(3) shall be used by the Secretary solely to acquire easements in real property in the United States for conservation of migratory birds.

(c) Promotion of stamp sales

The Secretary may use funds from the sale of Migratory Bird Hunting and Conservation Stamps, not to exceed $1,000,000 in each of fiscal years 1999, 2000, 2001, 2002, and 2003, for the promotion of additional sales of those stamps, in accordance with a Migratory Bird Conservation Commission approved annual marketing plan. Such promotion shall include the preparation of reports, brochures, or other appropriate materials to be made available to the public that describe the benefits to wildlife derived from stamp sales.

(d) Annual report

The Secretary shall include in each annual report of the Commission under section 3 of the Migratory Bird Conservation Act (16 U.S.C. 715b)—

(1) a description of activities conducted under subsection (c) in the year covered by the report;

(2) an annual assessment of the status of wetlands conservation projects for migratory bird conservation purposes, including a clear and accurate accounting of—

(A) all expenditures by Federal and State agencies under this section; and

(B) all expenditures made for fee-simple acquisition of Federal lands in the United States, including the amount paid and acreage of each parcel acquired in each acquisition;

(3) an analysis of the refuge lands opened, and refuge lands closed, for hunting and fishing in the year covered by the report, including—

(A) identification of the specific areas in each refuge and the reasons for the closure or opening; and

(B) a detailed description of each closure including detailed justification for such closure;

(4) the total number of acres of refuge land open for hunting and fishing, and the total number of acres of refuge land closed for hunting and fishing, in the year covered by the report; and

(5) a separate report on the hunting and fishing status of those lands added to the system in the year covered by the report.


REFERENCES IN TEXT

The Migratory Bird Conservation Act, referred to in subsec. (b)(2), (3), 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.

AMENDMENTS

2014—Subsec. (a)(3). Pub. L. 113–234, § 2(3)(A), inserted before period at end “, in which there shall be a sub-account to which the Secretary of the Treasury shall transfer all amounts in excess of $15 that are received from the sale of each stamp sold for each hunting year after hunting year 2013”.

Subsec. (b)(1). Pub. L. 113–234, § 2(3)(B), substituted “Except as provided in paragraph (4), so much” for “So much”; “paragraphs (3) and (4)” for “paragraph (3)’’.


Subsec. (c). Pub. L. 113–234, § 3(1), struck out par. (1) designation and heading and par. (2). Prior to amendment, text of par. (2) read as follows: “The Secretary shall include in each annual report of the Commission under section 715b of this title a description of activities conducted under this subsection in the year covered by the report.”


2006—Pub. L. 109–266, § 10(e)(1), (2), inserted section catchline, substituted subsec. (a) for introductory provisions which read “All moneys received for such stamps shall be accounted for by the Postal Service or the Department of the Interior, whichever is appro-
priate, and paid into the Treasury of the United States, and shall be reserved and set aside as a special fund to be known as the migratory bird conservation fund, to be administered by the Secretary of the Interior. All moneys received into such fund are appropriated for the following objects and shall be available therefor until expended:—

(b) Alteration

No person to whom has been sold a Migratory Bird Hunting and Conservation Stamp, validated as provided in section 718a of this title, shall alter, transfer such stamp to any person during the period of its validity; nor shall any person other than the person validating such stamp use it for any purpose during such period.

(c) Reproduction

Notwithstanding the provisions of subsection (b), or the prohibition in section 504(1)(D) of title 18, no person shall alter, mutilate, imitate, or counterfeit any stamp authorized by this subchapter, or imitate or counterfeit any die, plate, or engraving therefor, or make, print, or knowingly use, sell, or have in his possession any such counterfeit, die, plate, or engraving.

Subsec. (b). Act Oct. 20, 1951, inserted “in enforcing” after “The remainder shall be available for expenses”.


Effective Date of 1958 Amendment

For effective date of amendment by Pub. L. 85–585, see section 4 of Pub. L. 85–585, set out as a note under section 718b of this title.

Transfer of Functions

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 718a of this title.

§718e. Loans and transfers, alteration, and reproduction of stamps

(a) In general

No person to whom has been sold a Migratory Bird Hunting and Conservation Stamp, validated as provided in section 718a of this title, shall loan or transfer such stamp to any person during the period of its validity; nor shall any person other than the person validating such stamp use it for any purpose during such period.

(b) Alteration

Except as provided in clauses (i) and (ii) of section 504(1)(D) of title 18, no person shall alter, mutilate, imitate, or counterfeit any stamp authorized by this subchapter, or imitate or counterfeit any die, plate, or engraving therefor, or make, print, or knowingly use, sell, or have in his possession any such counterfeit, die, plate, or engraving.

(c) Reproduction

Notwithstanding the provisions of subsection (b), or the prohibition in section 504(1)(D) of title 18, no person shall alter, mutilate, imitate, or counterfeit any stamp authorized by this subchapter, or imitate or counterfeit any die, plate, or engraving therefor, or make, print, or knowingly use, sell, or have in his possession any such counterfeit, die, plate, or engraving.

Subsec. (b). Act Oct. 20, 1951, inserted “in enforcing” after “The remainder shall be available for expenses”.


Effective Date of 1958 Amendment

For effective date of amendment by Pub. L. 85–585, see section 4 of Pub. L. 85–585, set out as a note under section 718b of this title.

Transfer of Functions

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 718a of this title.

§718e. Loans and transfers, alteration, and reproduction of stamps

(a) In general

No person to whom has been sold a Migratory Bird Hunting and Conservation Stamp, validated as provided in section 718a of this title, shall loan or transfer such stamp to any person during the period of its validity; nor shall any person other than the person validating such stamp use it for any purpose during such period.

Subsec. (b). Act Oct. 20, 1951, inserted “in enforcing” after “The remainder shall be available for expenses”.


Effective Date of 1958 Amendment

For effective date of amendment by Pub. L. 85–585, see section 4 of Pub. L. 85–585, set out as a note under section 718b of this title.

Transfer of Functions

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 718a of this title.

§718e. Loans and transfers, alteration, and reproduction of stamps

(a) In general

No person to whom has been sold a Migratory Bird Hunting and Conservation Stamp, validated as provided in section 718a of this title, shall loan or transfer such stamp to any person during the period of its validity; nor shall any person other than the person validating such stamp use it for any purpose during such period.

(b) Alteration

Except as provided in clauses (i) and (ii) of section 504(1)(D) of title 18, no person shall alter, mutilate, imitate, or counterfeit any stamp authorized by this subchapter, or imitate or counterfeit any die, plate, or engraving therefor, or make, print, or knowingly use, sell, or have in his possession any such counterfeit, die, plate, or engraving.

(c) Reproduction

Notwithstanding the provisions of subsection (b), or the prohibition in section 504(1)(D) of title 18, no person shall alter, mutilate, imitate, or counterfeit any stamp authorized by this subchapter, or imitate or counterfeit any die, plate, or engraving therefor, or make, print, or knowingly use, sell, or have in his possession any such counterfeit, die, plate, or engraving.

Subsec. (b). Act Oct. 20, 1951, inserted “in enforcing” after “The remainder shall be available for expenses”.


Effective Date of 1958 Amendment

For effective date of amendment by Pub. L. 85–585, see section 4 of Pub. L. 85–585, set out as a note under section 718b of this title.

Transfer of Functions

Transfer of functions of Secretary of Agriculture to Secretary of the Interior by Reorg. Plan No. II of 1939, see Transfer of Functions note set out under section 718a of this title.
§ 718f. Enforcement

For the efficient execution of this subchapter, the judges of the several courts, established under the laws of the United States, United States magistrate judges, and persons appointed by the Secretary to enforce the provisions of this subchapter, shall have, with respect thereto, like powers and duties as are conferred upon said judges, magistrate judges, and employees of the Department of the Interior by the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), or any other Act to carry into effect any treaty for the protection of migratory birds with respect to that Act. Any bird or part thereof taken or possessed contrary to this subchapter shall, when seized, be disposed of by the Secretary in accordance with law.


REFERENCES IN TEXT

The Migratory Bird Treaty Act, and “that Act”, referred to in text, is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

AMENDMENTS

2006—Pub. L. 109-266 inserted section catchline, substituted “Department of the Interior” for “Secretary of Agriculture”.

§ 718g. Violations

Any person that violates or fails to comply with any provision of this subchapter (including a regulation promulgated under this subchapter) shall be subject to the penalties described in section 707 of this title.


PRIOR PROVISIONS


§ 718h. Cooperation

The Secretary is authorized to cooperate with the States and the territories and possessions of the United States in the enforcement of this subchapter.


PRIOR PROVISIONS


§ 718i. Use of contest fees

Notwithstanding any other provision of law, funds received by the United States Fish and Wildlife Service in the form of fees for entering any Migratory Bird Hunting and Conservation Stamp contest shall be credited—

(1) first, to the appropriation account from which expenditures for the administration of the contest are made; and

(2) second, to the extent any funds remain, to the Migratory Bird Conservation Fund.


PRIOR PROVISIONS


Mentioned in this section are various acts and statutes, including the Migratory Bird Treaty Act, which are referenced in the text. The acts and statutes are cited as follows:

- **Title 16—Conservation**
  - **§ 718i**
  - **§ 718f**
  - **§ 718g**
  - **§ 718h**
  - **§ 718i**

These sections deal with the enforcement, cooperation, and penalties related to the Migratory Bird Treaty Act. The text includes references to other acts and statutes, such as the Interior Act of 1906 and the Federal Insecticide, Fungicide, and Rodenticide Act, which provide the legal framework for the enforcement and management of migratory bird protection.
§718j. Definitions
(a) In general
In this subchapter, the terms defined in the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) have the meanings given those terms in those Acts.

(b) Other definitions
In this subchapter:

(1) Hunting year
The term “hunting year” means the 1-year period beginning on July 1 of each year.

(2) Migratory waterfowl
The term “migratory waterfowl” means the species enumerated in paragraph (a) of subdivision 1 of article I of the Convention between the United States and Great Britain for the Protection of Migratory Birds, signed at Washington on August 16, 1916 (USTS 628) (16 U.S.C. 703 et seq.).

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

(4) State
The term “State” means—
(A) a State;
(B) the District of Columbia;
(C) the Commonwealth of Puerto Rico;
(D) Guam;
(E) American Samoa;
(F) the Commonwealth of the Northern Mariana Islands;
(G) the Federated States of Micronesia;
(H) the Republic of the Marshall Islands;
(I) the Republic of Palau; and
(J) the United States Virgin Islands.

(5) Take
The term “take” means—
(A) to pursue, hunt, shoot, capture, collect, or kill; or
(B) to attempt to pursue, hunt, shoot, capture, collect, or kill.


§718q. Use of fees collected for Federal migratory bird permits
On and after October 21, 1998, all fees collected for Federal migratory bird permits shall be available to the Secretary, without further appropriation, to be used for the expenses of the U.S. Fish and Wildlife Service in administering such Federal migratory bird permits, and shall remain available until expended.


SUBCHAPTER IV—A—PERMANENT ELECTRONIC DUCK STAMP

§718o. Definitions
In this subchapter:

(1) Actual stamp
The term “actual stamp” means a Federal migratory-bird hunting and conservation stamp required under the Act of March 16, 1934 (16 U.S.C. 718a et seq.) (popularly known as the “Duck Stamp Act”), that is printed on paper and sold through the means established by the authority of the Secretary immediately before December 18, 2014.

(2) Automated licensing system
(A) In general
The term “automated licensing system” means an electronic, computerized licensing system used by a State fish and wildlife agency to issue hunting, fishing, and other associated licenses and products.

(B) Inclusion
The term “automated licensing system” includes a point-of-sale, Internet, telephonic system, or other electronic applications used for a purpose described in subparagraph (A).

(3) Electronic stamp
The term “electronic stamp” means an electronic version of an actual stamp that—
(A) is a unique identifier for the individual to whom it is issued;
(B) can be printed on paper or produced through an electronic application with the same indicators as the State endorsement provides;
(C) is issued through a State automated licensing system that is authorized, under State law and by the Secretary under this subchapter, to issue electronic stamps;
(D) is compatible with the hunting licensing system of the State that issues the electronic stamp; and
(E) is described in the State application approved by the Secretary under section 718q(b) of this title.

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


REFERENCES IN TEXT
The Migratory Bird Conservation Act, referred to in subsec. (a), 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 Treaty Act, referred to in subsec. (a), is act March 16, 1918, ch. 128, 48 Stat. 755, which is classified generally to subchapter II (§703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 718q(b) of this title.
§ 718p. Authority to issue electronic duck stamps

(a) In general

The Secretary may authorize any State to issue electronic stamps in accordance with this subchapter.

(b) Consultation

The Secretary shall implement this section in consultation with State management agencies.


§ 718q. State application

(a) Approval of application required

The Secretary may not authorize a State to issue electronic stamps under this subchapter unless the Secretary has received and approved an application submitted by the State in accordance with this section. The Secretary may determine the number of new States per year to participate in the electronic stamp program.

(b) Contents of application

The Secretary may not approve a State application unless the application contains—

(1) a description of the format of the electronic stamp that the State will issue under this subchapter, including identifying features of the licensee that will be specified on the stamp;

(2) a description of any fee the State will charge for issuance of an electronic stamp;

(3) a description of the process the State will use to account for and transfer to the Secretary the amounts collected by the State that are required to be transferred to the Secretary under the program;

(4) the manner by which the State will transmit electronic stamp customer data to the Secretary;

(5) the manner by which actual stamps will be delivered;

(6) the policies and procedures under which the State will issue duplicate electronic stamps; and

(7) such other policies, procedures, and information as may be reasonably required by the Secretary.

(c) Publication of deadlines, eligibility requirements, and selection criteria

Not later than 30 days before the date on which the Secretary begins accepting applications under this section, the Secretary shall publish—

(1) deadlines for submission of applications;

(2) eligibility requirements for submitting applications; and

(3) criteria for approving applications.


§ 718r. State obligations and authorities

(a) Delivery of actual stamp

The Secretary shall require that each individual to whom a State sells an electronic stamp under this subchapter shall receive an actual stamp—

(1) by not later than the date on which the electronic stamp expires under section 718s(c) of this title; and

(2) in a manner agreed upon by the State and Secretary.

(b) Collection and transfer of electronic stamp revenue and customer information

(1) Requirement to transmit

The Secretary shall require each State authorized to issue electronic stamps to collect and submit to the Secretary in accordance with this section—

(A) the first name, last name, and complete mailing address of each individual that purchases an electronic stamp from the State;

(B) the face value amount of each electronic stamp sold by the State; and

(C) the amount of the Federal portion of any fee required by the agreement for each stamp sold.

(2) Time of transmittal

The Secretary shall require the submission under paragraph (1) to be made with respect to sales of electronic stamps by a State according to the written agreement between the Secretary and the State agency.

(3) Additional fees not affected

This section shall not apply to the State portion of any fee collected by a State under subsection (c).

(c) Electronic stamp issuance fee

A State authorized to issue electronic stamps may charge a reasonable fee to cover costs incurred by the State and the Department of the Interior in issuing electronic stamps under this subchapter, including costs of delivery of actual stamps.

(d) Duplicate electronic stamps

A State authorized to issue electronic stamps may issue a duplicate electronic stamp to replace an electronic stamp issued by the State that is lost or damaged.

(e) Limitation on authority to require purchase of State license

A State may not require that an individual purchase a State hunting license as a condition of issuing an electronic stamp under this subchapter.


§ 718s. Electronic stamp requirements; recognition of electronic stamp

(a) Stamp requirements

The Secretary shall require an electronic stamp issued by a State under this subchapter—

(1) to have the same format as any other license, validation, or privilege the State issues under the automated licensing system of the State; and

(2) to specify identifying features of the licensee that are adequate to enable Federal, State, and other law enforcement officers to identify the holder.
§ 718t  Recognition of electronic stamp

Any electronic stamp issued by a State under this subchapter shall, during the effective period of the electronic stamp—
(1) bestow upon the licensee the same privileges as are bestowed by an actual stamp;
(2) be recognized nationally as a valid Federal migratory bird hunting and conservation stamp; and
(3) authorize the licensee to hunt migratory waterfowl in any other State, in accordance with the laws of the other State governing that hunting.

c) Effort to conduct Program in all States

(1) In general

The Secretary shall take appropriate steps to seek to conduct the Program in all of the States.

(2) Annual report

The Secretary shall annually submit a report to the Congress on the status of the Program in each of the States.


AMENDMENTS

2000—Subsec. (c). Pub. L. 106-316 struck out “50” before “States” in pars. (1) and (2).

§ 718t. Termination of State participation

(c) Duration

An electronic stamp issued by a State shall be valid for a period agreed to by the State and the Secretary, which shall not exceed 45 days.


§ 719. Establishment of Program

(a) In general

The Secretary of the Interior (in this subchapter referred to as the “Secretary”) may carry out in accordance with this subchapter a program to be known as the “Junior Duck Stamp Conservation and Design Program” (in this subchapter referred to as the “Program”) to accomplish the goals of—
(1) providing to school children environmental education opportunities relating to the conservation and management of migratory birds; and
(2) increasing the capacity for schools, States, and other educational programs to conduct conservation and education programs.

(b) Program features

The Program shall consist of—
(1) conducting in all interested States the activities which on the day before October 6, 1994, are conducted under the program known as the Junior Duck Stamp Conservation and Design Program;
(2) other activities authorized under the Program by this subchapter or any other Act; and
(3) any other activity necessary to carry out the conservation and education goals of the Program.

1 So in original. Subsec. (c), as amended by Pub. L. 109–166, does not contain a par. (2).
education activities related to the conservation education goals of the Program;
(C) award ceremonies for winners of national and State Junior Duck Stamp competitions;
(D) travel expenses for winners of national and State Junior Duck Stamp competitions to award ceremonies, if—
   (i) the event is intended to honor students for winning a national competition; or
   (ii) the event is intended to honor students for winning a State competition;
(E) expenses for licensing and marketing under subsection (b);
(F) expenses for migratory bird reference materials or supplies awarded to schools that participate in the Program; and
(G) expenses for marketing and educational materials developed to promote the Program.2


AMENDMENTS
2006—Subsec. (c). Pub. L. 109–166 amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “Amounts received under subsection (b) of this section—
   “(1) shall be available to the Secretary until expended, without further appropriations, solely for—
      “(A) awards and scholarships to individuals who submit designs in competitions under subsection (a) of this section, that are—
         “(i) selected in such a competition as winning designs; or
         “(ii) otherwise determined in such a competition to be superior;
      “(B) awards to schools and other participants to further education activities related to the conservation education goals of the Program; and
      “(C) expenses for licensing and marketing under subsection (b) of this section; and
   “(2) may not be used for administrative expenses of the Program.”

§ 719b. Acceptance of gifts, devises, and bequests

The Secretary may accept and use any gift, devise, or bequest of personal property, or proceeds thereof, for the purpose of funding the activities described in section 719a(c)(1)(A) and (B) of this title.


AMENDMENTS
2006—Subsec. (c). Pub. L. 109–166 amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “Amounts received under subsection (b) of this section—
   “(1) shall be available to the Secretary until expended, without further appropriations, solely for—
      “(A) awards and scholarships to individuals who submit designs in competitions under subsection (a) of this section, that are—
         “(i) selected in such a competition as winning designs; or
         “(ii) otherwise determined in such a competition to be superior;
      “(B) awards to schools and other participants to further education activities related to the conservation education goals of the Program; and
      “(C) expenses for licensing and marketing under subsection (b) of this section; and
   “(2) may not be used for administrative expenses of the Program.”

§ 719b–1. Definition of State

For the purposes of this subchapter, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.


PRIOR PROVISIONS
A prior section 5 of Pub. L. 103–340 was renumbered section 6 and is classified to section 719c of this title.

2So in original.

§ 719c. Authorization of appropriations

(a) Authorization

There are authorized to be appropriated to the Secretary for administrative expenses of the Program $350,000 for each of the fiscal years 2006 through 2010.

(b) Limitations on use for distribution to State and regional coordinators to implement competitions

Of the amount appropriated under this section for a fiscal year—
   (1) not more than $100,000 may be used by the Secretary to administer the Program; and
   (2) not more than $250,000 may be distributed to State and regional coordinators to implement competitions under the Program.


CODIFICATION
Another section 6 of Pub. L. 103–340 was renumbered section 7 and enacted provisions listed in a table of National Wildlife Refuges set out under section 688dd of this title.

AMENDMENTS
2006—Pub. L. 109–166 designated existing provisions as subsec. (a), inserted subsec. (a) heading, substituted “$350,000” for “$250,000” and “fiscal years 2006 through 2010” for “fiscal years 2006 through 2005”, and added subsec. (b).
2000—Pub. L. 106–316, § 1, substituted “for each of the fiscal years 2006 through 2005” for “for each of the fiscal years 1996 through 2000”.

CHAPTER 8—UPPER MISSISSIPPI RIVER NATIONAL WILDLIFE AND FISH REFUGE

Sec. 721. Short title; “person” defined.

722. Acquisition of lands and water.

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

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

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

726. Acts prohibited in refuge; commercial fishing.


728. Expenditures.

729. Price per acre.

730. Violations of law or regulations; punishment.

731. Effect on other laws.

732. Short title; “person” defined.

This chapter may be cited as “The Upper Mississippi River National Wildlife and Fish Refuge Act.” The term “person” as used therein includes an individual, partnership, association, or corporation.


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

AMENDMENTS