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Title 16 - CONSERVATION

CHAPTER 7 - PROTECTION OF MIGRATORY GAME AND INSECTIVOROUS BIRDS

SUBCHAPTER III - MIGRATORY BIRD CONSERVATION

From the U.S. Government Publishing Office, www.gpo.gov**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.

(Feb. 18, 1929, ch. 257, §2, 45 Stat. 1222; 1939 Reorg. Plan No. II, §4(f), (h), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 90–261, Mar. 2, 1968, 82 Stat. 39; Pub. L. 94–215, §4, Feb. 17, 1976, 90 Stat. 190; Pub. L. 101–233, §13, Dec. 13, 1989, 103 Stat. 1977.)

AMENDMENTS

1989—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. (Feb. 18, 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. 104–66, 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.

(Feb. 18, 1929, ch. 257, §4, 45 Stat. 1223; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 89–669, §7(a), Oct. 15, 1966,

80 Stat. 929; Pub. L. 95–552, §2, Oct. 30, 1978, 92 Stat. 2071.)

AMENDMENTS

1978—Pub. L. 95–552 substituted "may not recommend any area" for "shall recommend no area", incorporated existing provision in item (1) and added item (2).

1966—Pub. L. 89–669 struck out "game" from "migratory game birds".

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.

§715d. Purchase or rental of approved areas or interests therein; gifts and devises; United States lands

The Secretary of the Interior may—

(1) purchase or rent such areas or interests therein as have been approved for purchase or rental by the Commission at the price or prices fixed by the Commission; and

(2) acquire, by gift or devise, any area or interests therein;

which he determines to be suitable for use as an inviolate sanctuary, or for any other management purpose, for migratory birds. The Secretary may pay, when deemed necessary by him and from moneys authorized to be appropriated for the purposes of this subchapter (A) the purchase or rental price of any such area or interest therein, and (B) the expenses incident to the location, examination, survey, and acquisition of title (including options) of any such area or interest therein. No lands acquired, held, or used by the United States for military purposes shall be subject to any provisions of this subchapter.

(Feb. 18, 1929, ch. 257, §5, 45 Stat. 1223; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 95–616, §5(a), Nov. 8, 1978, 92 Stat. 3113.)

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.

§§715d–1, 715d–2. Repealed. Pub. L. 89–669, §8(a), Oct. 15, 1966, 80 Stat. 930

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, 1935, 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.

(Feb. 18, 1929, ch. 257, §6, 45 Stat. 1223; June 15, 1935, ch. 261, title III, §301, 49 Stat. 381; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 91–393, §6, Sept. 1, 1970, 84 Stat. 835.)

AMENDMENTS

1970—Pub. L. 91–393 inserted "or his designee" after "Attorney General".

1935—Act June 15, 1935, inserted "under said sections or any other Act for the acquisition by the Secretary of Agriculture of areas for wildlife refuges" and "or 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

Section, act June 15, 1935, ch. 261, title III, §304, 49 Stat. 382, applying section 715e of this title to exchanges effected under former sections 715d-1 and 715d-2, has been omitted due to the repeal of sections 715d-1 and 715d-2 by Pub. L. 89-669, §8(a), Oct. 15, 1966, 80 Stat. 930.

§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.

(Feb. 18, 1929, ch. 257, §7, 45 Stat. 1223; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 103-434, title XIII, Oct. 31, 1994, 108 Stat. 4565.)

AMENDMENTS

1994—Pub. L. 103-434 inserted "in fee" after "conveyance".

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.

(Feb. 18, 1929, ch. 257, §8, 45 Stat. 1224.)

§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.

(Feb. 18, 1929, ch. 257, §9, 45 Stat. 1224.)

§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.

(Feb. 18, 1929, ch. 257, §10, 45 Stat. 1224; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 89-669, §7(b), Oct. 15, 1966, 80 Stat. 929; Pub. L. 93-205, §13(b), Dec. 28, 1973, 87 Stat. 902; Pub. L. 95-616, §5(b), Nov. 8, 1978, 92 Stat. 3114.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-616 provided for treaty obligations with Japan and the Union of Soviet Socialist Republics.

1973—Subsec. (a). Pub. L. 93-205 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)(1) of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-205 effective Dec. 28, 1973, see section 16 of Pub. L. 93-205, set out as a note under section 1531 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.

§715j. "Migratory birds" defined

For the purposes of this subchapter and the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), migratory birds are those defined as such by the treaty between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916 (39 Stat. 1702), the treaty between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936 (50 Stat. 1311), the Convention between the Government of the United States of America 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 Environment concluded November 19, 1976.

(Feb. 18, 1929, ch. 257, §11, 45 Stat. 1224; Pub. L. 89–669, §7(c), Oct. 15, 1966, 80 Stat. 930; Pub. L. 95–616, §5(c), Nov. 8, 1978, 92 Stat. 3114.)

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 710 of this title and Tables.

AMENDMENTS

1978—Pub. L. 95–616 defined migratory birds for purposes of the Migratory Bird Treaty Act and to include those defined in the Convention of Mar. 4, 1972, concluded with Government of Japan and the Convention of Nov. 19, 1976, concluded with Union of Soviet Socialist Republics.

1966—Pub. L. 89–669 inserted "(39 Stat. 1702)" and defined migratory birds to include those defined in the Treaty of Feb. 7, 1936 (50 Stat. 1311) with the United Mexican States.

§715k. Authorization of appropriations for purposes of subchapter; disposal; reservation protectors

For the acquisition, including the location, examination, and survey, of suitable areas of land, water, or land and water, for use as migratory bird reservations, and necessary expenses incident thereto, and for the administration, maintenance, and development of such areas and other preserves, reservations, or breeding grounds frequented by migratory birds and under the administration of the Secretary of the Interior, including the construction of dams, dikes, ditches, flumes, spillways, buildings, and other necessary improvements, and for the elimination of the loss of migratory birds from alkali poisoning, oil pollution of waters, or other causes, for cooperation with local authorities in wildlife conservation, for investigations and publications relating to North American birds, for personal services, printing, engraving, and issuance of circulars, posters, and other necessary matter and for the enforcement of the provisions of this subchapter, there are hereby authorized to be appropriated, in addition to all other amounts authorized by law to be appropriated, \$200,000 for the fiscal year ending June 30, 1940, and for each fiscal year thereafter. No part of any appropriation authorized by this section shall be used for payment of the salary, compensation, or expenses of any United States protector, except reservation protectors for the administration, maintenance and protection of such reservations and the birds thereon: *Provided*, That reservation protectors appointed under the provisions of this subchapter, shall be selected, when practicable, from qualified citizens of the State in which they are to be employed. The Secretary of the Interior is authorized and directed to make such expenditures and to employ such means, including personal services in the District of Columbia and elsewhere, as may be necessary to carry out the foregoing objects.

(Feb. 18, 1929, ch. 257, §12, 45 Stat. 1224; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 89–669, §7(a), Oct. 15, 1966,

80 Stat. 929.)

CODIFICATION

Provisions of this section which related to appropriations for the fiscal year ending June 30, 1930, to June 30, 1939, were omitted.

AMENDMENTS

1966—Pub. L. 89–669 substituted "grounds frequented by migratory birds" for "grounds frequented by migratory game birds", and "United States protector" for "United States game protector".

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.

§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.

(June 15, 1935, ch. 261, title VII, §701, 49 Stat. 384; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

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

Act June 15, 1935, in addition to the provisions set out in the text, made an appropriation for the acquisition of lands necessary to provide for the restoration, rehabilitation and protection of migratory waterfowl and other wildlife and for the erection and construction of necessary buildings, dikes, dams, canals, and other works.

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 715a of this title.

§715k–2. Omitted

CODIFICATION

Section, acts June 29, 1937, ch. 404, title I, 50 Stat. 421; June 16, 1938, ch. 464, title I, 52 Stat. 736; June 30, 1939, ch. 253, title I, 53 Stat. 965, made an earlier specific appropriation available for maintenance and operation of motor-propelled passenger-carrying vehicles.

§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.

(Pub. L. 87–383, §1, Oct. 4, 1961, 75 Stat. 813; Pub. L. 90–205, §1(a), Dec. 15, 1967, 81 Stat. 612; Pub. L. 94–215, §2(a), Feb. 17, 1976, 90 Stat. 189; Pub. L. 98–200, §1, Dec. 2, 1983, 97 Stat. 1378; Pub. L. 98–548, title I, §101, Oct. 26, 1984, 98 Stat. 2774; Pub. L. 99–645, title I, §101(a), Nov. 10, 1986, 100 Stat. 3584; Pub. L. 100–653, title III, §301, Nov. 14, 1988, 102 Stat. 3827.)

CODIFICATION

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

AMENDMENTS

1988—Pub. L. 100–653 substituted "when all amounts authorized to be appropriated have been expended" for "at the close of September 30, 1988".

1986—Pub. L. 99–645 substituted "September 30, 1988" for "September 30, 1986".

1984—Pub. L. 98–548 substituted "September 30, 1986" for "September 30, 1984".

1983—Pub. L. 98–200 substituted "September 30, 1984" for "September 30, 1983".

1976—Pub. L. 94–215 substituted "period beginning on July 1, 1961, and ending at the close of September 30, 1983, not to exceed \$200,000,000" for "fifteen-year period beginning with fiscal year 1962, not to exceed \$105,000,000".

1967—Pub. L. 90–205 substituted "fifteen-year period" for "seven-year period".

SHORT TITLE

Pub. L. 87–383, which enacted this section and sections 715k–4 and 715k–5 of this title, is popularly known as the "Wetlands Loan Act".

§715k–4. Accounting and use of appropriations

Funds appropriated each fiscal year pursuant to sections 715k–3 to 715k–5 of this title shall be accounted for, added to, and used for purposes of the migratory bird conservation fund ¹ established pursuant to section 718d of this title.

(Pub. L. 87–383, §2, Oct. 4, 1961, 75 Stat. 813.)

CODIFICATION

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

¹ *So in original. Probably should be capitalized.*

§715k–5. Acquisition of lands

No land shall be acquired with moneys from the migratory bird conservation fund ¹ unless the acquisition thereof has been approved by the Governor of the State or appropriate State agency.

(Pub. L. 87–383, §3, Oct. 4, 1961, 75 Stat. 813; Pub. L. 90–205, §1(b), Dec. 15, 1967, 81 Stat. 612; Pub. L. 94–215, §2(b), Feb. 17, 1976, 90 Stat. 189; Pub. L. 98–200, §2, Dec. 2, 1983, 97 Stat. 1378; Pub. L. 98–548, title I, §102, Oct. 26, 1984, 98 Stat. 2774; Pub. L. 99–645, title I, §101(b), Nov. 10, 1986, 100 Stat. 3584.)

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."

1984—Pub. L. 98–548 substituted "October 1, 1986" for "October 1, 1984" in two places.

1983—Pub. L. 98–200 substituted "October 1, 1984" for "October 1, 1983" in two places.

1976—Pub. L. 94–215 substituted "on October 1, 1983" for "with fiscal year 1977", "before October 1, 1983" for "prior to the end of the aforesaid fifteen-year period" and "year. No" for "year: *Provided further*, That no".

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

¹ So in original. Probably should be capitalized.

§§715l, 715m. Repealed. Pub. L. 89–669, §7(d), Oct. 15, 1966, 80 Stat. 930

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, kill, or attempt to pursue, hunt, shoot, capture, collect, or kill, unless the context otherwise requires.

(Feb. 18, 1929, ch. 257, §15, 45 Stat. 1225.)

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

Nothing in this subchapter shall be construed as authorizing or empowering the Migratory Bird Conservation Commission herein created, the Secretary of

the Interior, or any other board, commission, or officer, to declare, withdraw, or determine, except heretofore designated, any part of any national forest or power site, a migratory bird reservation under any of the provisions of this subchapter, except by and with the consent of the legislature of the State wherein such forest or power site is located.

(Feb. 18, 1929, ch. 257, §16, 45 Stat. 1225; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

REFERENCES IN TEXT

Herein created, referred to in text, means created by section 715a 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.

§715p. Cooperation of State in enforcement of provisions

When any State shall, by suitable legislation, make provision adequately to enforce the provisions of this subchapter and all regulations promulgated thereunder, the Secretary of the Interior may so certify, and then and thereafter said State may cooperate with the Secretary of the Interior in the enforcement of this subchapter and the regulations thereunder.

(Feb. 18, 1929, ch. 257, §17, 45 Stat. 1225; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

TRANSFER OF FUNCTIONS

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

§715q. Expenses of commission; authorization of appropriations

A sum sufficient to pay the necessary expenses of the commission and its members, not to exceed an annual expenditure of \$7,500, is authorized to be appropriated out of any money in the Treasury not otherwise appropriated. Said appropriation shall be paid out on the audit and order of the chairman of said commission, which audit and order shall be conclusive and binding upon the Government Accountability Office as to the correctness of the accounts of said commission.

(Feb. 18, 1929, ch. 257, §18, 45 Stat. 1225; Pub. L. 87–812, Oct. 15, 1962, 76 Stat. 922; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

1962—Pub. L. 87–812 increased annual expenditures from not more than \$5,000 to not more than \$7,500 and corrected a misspelling of "commission".

§715r. Partial invalidity; validity of remainder

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid the validity of the remainder of this subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

(Feb. 18, 1929, ch. 257, §19, 45 Stat. 1226.)

§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 carcassas,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.

(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 17, 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.

(June 15, 1935, ch. 261, title IV, §401, 49 Stat. 383; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, §3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Oct. 31, 1951, ch. 654, §2(13), 65 Stat. 707; Pub. L. 88–523, Aug. 30, 1964, 78 Stat. 701; Pub. L. 89–669, §8(b), Oct. 15, 1966, 80 Stat. 930; Pub. L. 93–205, §13(b), Dec. 28, 1973, 87 Stat. 902; Pub. L. 93–509, §4, Dec. 3, 1974, 88 Stat. 1603; Pub. L. 95–469, §1(a), Oct. 17, 1978, 92 Stat. 1319; Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068.)

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 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)(1), (2), and (3) of this section", enacted as an amendment to subsec. (f) by section 1(a)(3) of Pub. L. 95–469, is a reference to the proposed amendment as set out on pg. 1 of House Report No. 95–1197 of the 95th Congress, 2d Session, May 15, 1978, and reading in part:

"(a) All revenues received during each fiscal year by the Secretary in connection with the operation and management of fee areas and reserve areas from—

"(1) the sale or disposition of animals, salmonoid carcasses, products of the soil (including, but not limited to, timber, hay, and grass), minerals (including, but not limited to, crude petroleum and natural gas), shells, sand, and gravel;

"(2) leases for public accommodations or facilities incidental to, but not in conflict with, the major purposes of such areas; and

"(3) other privileges;

shall be covered" which was not enacted by the Congress but subsec. (a) was amended as provided in the 1978 Amendment note below.

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

AMENDMENTS

1982—Subsec. (h). Pub. L. 97–258 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.

1978—Subsec. (a). Pub. L. 95–469, §1(a)(1), authorized the separate fund in the United States Treasury to include revenues from sale or other disposition of salmonoid carcasses and extended the operation and management provision to areas of National Fish Hatcheries and other areas administered by the Secretary.

Subsec. (b). Pub. L. 95–469, §1(a)(2), substituted "revenue-producing and revenue-sharing measures" for "revenue-producing measures set forth in subsection (a) of this section".

Subsec. (c). Pub. L. 95–469, §1(a)(3), in revising subsec. (c), substituted pars. (1) to (5) for prior text consisting of: introductory text authorizing expenditures solely for benefit of public schools and roads, now covered in par. (5)(C); par. (1) of first sentence, now included in par. (2); par. (2) of first sentence, now covered in pars. (1)(B), (C) and (4) in part; and second sentence now incorporated in par. (4)(B).

Subsec. (d). Pub. L. 95–469, §1(a)(3), substituted provision for authorization of appropriations equal to difference between amount of net receipts and aggregate amount of required payments for prior provision limiting amount payable to the counties to amount of net receipts in the fund for any fiscal year and a proportionate reduction of payments when net receipts are insufficient for aggregate amount of payments for any fiscal year.

Subsec. (e). Pub. L. 95–469, §1(a)(3), in revising subsec. (e), substituted provision authorizing use of surplus funds for acquisition of suitable areas for migratory bird refuges for prior provision making remaining funds available for such land acquisition and eliminated provision prohibiting funds available for the Management of the National Wildlife Refuge System or for enforcement of the Migratory Bird Treaty Act from being diminished by the amendments made by Pub. L. 93–509 to this subsection unless by specific congressional enactment.

Subsec. (f). Pub. L. 95–469, §1(a)(3), substituted "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." for "The disposition or sale of surplus animals, minerals, and other products, the grant of privileges, and the carrying out of any other activities that result in the collection of revenues within any areas of the System may be accomplished upon such terms, conditions, or regulations, including sale in the open markets, as the Secretary shall determine to be in the best interest of the United States." and reenacted substance of second sentence, setting out provision for regulations at beginning rather than end of sentence.

Subsec. (g). Pub. L. 95–469, §1(a)(3), substituted definitions of certain terms for prior provision for superseded by Pub. L. 88–523 of repealed paragraph of "Management of National Wildlife Refuges" in the General Appropriation Act, 1951, approved Sept. 6, 1950 (64 Stat. 595, 693 to 694).

Subsec. (h). Pub. L. 95–469, §1(a)(4), added subsec. (h).

1974—Subsec. (e). Pub. L. 93–509 substituted provisions that 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.

1973—Subsec. (a). Pub. L. 93–205 substituted "listed pursuant to section 1533 of this title as endangered species or threatened species," for "threatened with extinction,".

1966—Subsec. (a). Pub. L. 89–669 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 public lands provision of subsec. (c)(1) 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 subsecs. (d), (e), and (g); and incorporated the second proviso of the first clause in subsec. (f).

1951—Act Oct. 31, 1951, in second proviso, inserted reference to application regulations of the Federal Property and Administrative Services Act of 1949, as amended, and, in third proviso, inserted reference to section 485 of Title 40.

EFFECTIVE DATE OF 1978 AMENDMENT; FISCAL YEAR OF AVAILABILITY OF APPROPRIATION AUTHORIZATION

Pub. L. 95-469, §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 payments made to counties under title IV of the Act of June 15, 1935 [this section], for the fiscal year ending September 30, 1979, and for fiscal years thereafter; except that the amendments made to such title IV [this section] which amend section 401(a) and (g), add paragraph (4) to section 401(c) [subsecs. (a) and (g), and (c)(4) of this section], and amend the title heading [of this section] shall take effect on the date of the enactment of this Act [Oct. 17, 1978]. No authorization for appropriation shall be available under this Act before the fiscal year ending September 30, 1980."

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-205 effective Dec. 28, 1973, see section 16 of Pub. L. 93-205, set out as an Effective Date note under section 1531 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, consolidated Bureau of Fisheries and Bureau of Biological Survey, with their respective functions, into one agency in Department of the Interior to be known as the Fish and Wildlife Service.

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.

REFUGE REVENUE SHARING

Pub. L. 105-83, title I, §132, Nov. 14, 1997, 111 Stat. 1570, provided that: "Notwithstanding any other provision of law, hereafter the United States Fish and Wildlife Service may disburse to local entities impact funding pursuant to Refuge Revenue Sharing that is associated with Federal real property transferred to the United States Geological Survey from the United States Fish and Wildlife Service."

¹ So in original. Probably should be "carcasses,".