

TITLE 16 - CONSERVATION**CHAPTER 7 - PROTECTION OF MIGRATORY GAME AND INSECTIVOROUS BIRDS****SUBCHAPTER III - MIGRATORY BIRD CONSERVATION****§ 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) of this section 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) of this section 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) of this section within any fee area or reserve area subject to such terms, conditions, or regulations,

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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.

Footnotes

¹ So in original. Probably should be “carcasses.”

(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, as amended, 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

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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) of this section 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 supersedure 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).

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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

Section 2 of Pub. L. 95-469 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.”