§ 742f. Powers of Secretaries of the Interior and Commerce

(a) Policies, procedures, and recommendations

The Secretary of the Interior, with such advice and assistance as he may require from the Assistant Secretary for Fish and Wildlife, shall consider and determine the policies and procedures that are necessary and desirable in carrying out efficiently and in the public interest the laws relating to fish and wildlife. The Secretary, with the assistance of the departmental staff herein authorized, shall—

1. develop and recommend measures which are appropriate to assure the maximum sustainable production of fish and fishery products and to prevent unnecessary and excessive fluctuations in such production;
2. study the economic condition of the industry, and whenever he determines that any segment of the domestic fisheries has been seriously disturbed either by wide fluctuation in the abundance of the resource supporting it, or by unstable market or fishing conditions or due to any other factors he shall make such recommendations to the President and the Congress as he deems appropriate to aid in stabilizing the domestic fisheries;
3. develop and recommend special promotional and informational activities with a view to stimulating the consumption of fishery products whenever he determines that there is a prospective or actual surplus of such products; and
4. take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources including, but not limited to, research, development of existing facilities, and acquisition by purchase or exchange of land and water, or interests therein.

(b) Gifts, devises, or bequests for performance of activities and services of United States Fish and Wildlife Service; restrictive or affirmative covenants or conditions of servitude; separate account in Treasury; disbursement orders; gifts or bequests to United States for Federal tax purposes

1. In furtherance of the purposes of this Act, the Secretary of the Interior is authorized to accept any gifts, devises, or bequests of real and personal property, or proceeds therefrom, or interests therein, for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary to be in accordance with law and compatible with the purpose for which acceptance is sought.

2. Use of gifts, devises, and bequests.—

(A) In general.— Any gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests pursuant to this subsection shall be deposited in a separate account in the Treasury and shall be disbursed upon order of the Secretary for the benefit of programs administered by the United States Fish and Wildlife Service.

(B) Gifts, devises, and bequests to particular refuges.—

(i) Disbursal.— Any gift, devise, or bequest made for the benefit of a particular national wildlife refuge or complex of geographically related refuges shall be disbursed only for the benefit of that refuge or complex of refuges and without further appropriations.

(ii) Matching.— Subject to the availability of appropriations and the requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law, the Secretary may provide funds to match gifts, devises, and bequests made for the benefit of a particular national wildlife refuge or complex of geographically related refuges. With respect to each gift, devise, or bequest, the amount of Federal funds may not exceed the amount (or, in the case of property or in-kind services, the fair market value) of the gift, devise, or bequest.
(3) For the purpose of Federal income, estate, and gift taxes, property, or proceeds therefrom, or interests therein, accepted under this subsection shall be considered as a gift or bequest to the United States.

c) Volunteer services; incidental expenses; Federal employee status; authorization of appropriations

(1) The Secretary of the Interior and the Secretary of Commerce may each recruit, train, and accept, without regard to the provisions of title 5, the services of individuals without compensation as volunteers for, or in aid of programs conducted by either Secretary through the United States Fish and Wildlife Service or the National Oceanic and Atmospheric Administration.

(2) The Secretary of the Interior and the Secretary of Commerce are each authorized to provide for incidental expenses such as transportation, uniforms, lodging, awards (including nominal cash awards) and recognition, and subsistence of such volunteers without regard to their places of residence.

(3) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relative to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(4) For the purpose of the tort claim provisions of title 28, a volunteer under this subsection shall be considered a Federal employee.

(5) For the purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, volunteers under this subsection shall be deemed employees of the United States within the meaning of the term “employees” as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.

(6) Senior volunteer corps.— The Secretary of the Interior may establish a Senior Volunteer Corps, consisting of volunteers over the age of 50. To assist in the recruitment and retention of the volunteers, the Secretary may provide for additional incidental expenses to members of the Corps beyond the incidental expenses otherwise provided to volunteers under this subsection. The members of the Corps shall be subject to the other provisions of this subsection.

d) Community partnership enhancement

(1) Definition of partner organization

In this subsection, the term “partner organization” means an organization that—

(A) draws its membership from private individuals, organizations, corporations, academic institutions, or State or local governments;

(B) is established to promote the understanding of, education relating to, and the conservation of the fish, wildlife, plants, and cultural and historical resources of a particular refuge or complex of geographically related refuges; and

(C) is described in section 501 (c)(3) of title 26 and is exempt from taxation under section 501(a) of that title.

(2) Cooperative agreements

(A) In general

Notwithstanding chapter 63 of title 31, the Secretary of the Interior may negotiate and enter into a cooperative agreement with a partner organization, academic institution, State or local government agency, or other person to implement one or more projects or programs for a refuge or complex of geographically related refuges in accordance with the purposes of this subsection and in compliance with the policies of other relevant authorities, regulations, and policy guidance.

(B) Projects and programs
Subject to the requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law, and such terms and conditions as the Secretary determines to be appropriate, the Secretary may approve projects and programs for a refuge or complex of geographically related refuges that—

(i) promote the stewardship of resources of the refuge through habitat maintenance, restoration, and improvement, biological monitoring, or research;

(ii) support the operation and maintenance of the refuge through constructing, operating, maintaining, or improving the facilities and services of the refuge;

(iii) increase awareness and understanding of the refuge and the National Wildlife Refuge System through the development, publication, or distribution of educational materials and products;

(iv) advance education concerning the purposes of the refuge and the mission of the System through the use of the refuge as an outdoor classroom and development of other educational programs; or

(v) contribute financial resources to the refuge, under terms that require that the net revenues be used exclusively for the benefit of the refuge, through donation of net revenues from the sale of educational materials and products and through encouragement of gifts, devises, and bequests.

(C) **Federal funding and ownership**

(i) **Matching**

Subject to the availability of appropriations and the requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law, the Secretary may provide funds to match non-Federal funds donated under a cooperative agreement under this paragraph. With respect to each project or program, the amount of funds provided by the Secretary may not exceed the amount of the non-Federal funds donated through the project or program.

(ii) **Use of Federal funds**

Any Federal funds used to fund a project or program under a cooperative agreement may be used only for expenses directly related to the project or program and may not be used for operation or administration of any non-Federal entity.

(iii) **Ownership of facilities**

Any new facility, improvement to an existing facility, or other permanent improvement to a refuge constructed under this subsection shall be the property of the United States Government.

(D) **Treasury account**

Amounts received by the Secretary of the Interior as a result of projects and programs under subparagraph (B) shall be deposited in a separate account in the Treasury. Amounts in the account that are attributable to activities at a particular refuge or complex of geographically related refuges shall be available to the Secretary of the Interior, without further appropriation, to pay the costs of incidental expenses related to volunteer activities, and to carry out cooperative agreements for the refuge or complex of refuges.

(e) **Refuge education program enhancement**

(1) **Guidance**

Not later than 1 year after October 5, 1998, the Secretary of the Interior shall develop guidance for refuge education programs to further the mission of the National Wildlife Refuge System and the purposes of individual refuges through—
(A) providing outdoor classroom opportunities for students on national wildlife refuges that combine educational curricula with the personal experiences of students relating to fish, wildlife, and plants and their habitat and to the cultural and historical resources of the refuges;
(B) promoting understanding and conservation of fish, wildlife, and plants and cultural and historical resources of the refuges; and
(C) improving scientific literacy in conjunction with both formal and nonformal education programs.

(2) Refuge programs

Based on the guidance developed under paragraph (1), the Secretary of the Interior may develop or enhance refuge education programs as appropriate, based on the resources of individual refuges and the opportunities available for such programs in State, local, and private schools. In developing and implementing each program, the Secretary should cooperate with State and local education authorities, and may cooperate with partner organizations in accordance with subsection (d) of this section.

(f) Report

Not later than 1 year after January 4, 2011, and every 5 years thereafter, the Secretary of the Interior shall submit a report to the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(1) evaluating the accomplishments of the volunteer program, the community partnerships program, and the refuge education programs authorized under this section, and of the National Volunteer Coordination Program and volunteer coordination strategy under section 742f–1 of this title; and

(2) making recommendations to improve the effectiveness of such programs, including regarding implementing subparagraphs (A), (B), and (C) of paragraph (1) of subsection (e).

(g) Authorization of appropriations

There is authorized to be appropriated to the Secretary of the Interior to carry out subsections (b), (c), (d), (e), and (f), $2,000,000 for each of fiscal years 2011 through 2014.


References in Text

This Act, referred to in subsec. (b)(1), is act Aug. 8, 1956, ch. 1036, known as the Fish and Wildlife Act of 1956, which is classified generally to sections 742a to 742d and 742e to 742j–2 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 742a of this title and Tables.


Amendments


Pub. L. 111–357, § 2(a), amended subsec. (f) generally. Prior to amendment, text read as follows: “There is authorized to be appropriated to the Secretary of the Interior to carry out subsections (b), (c), (d), and (e) of this section $2,000,000 for each of fiscal years 2004 through 2009.”

Subsec. (g). Pub. L. 111–357, § 4(a)(1), redesignated subsec. (f) as (g).

2004—Subsec. (d)(2)(A). Pub. L. 108–327, § 4, reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The Secretary of the Interior may enter into a cooperative agreement (within the meaning of chapter 63 of title 31) with any partner organization, academic institution, or State or local government agency to carry out 1 or more projects or programs for a refuge or complex of geographically related refuges in accordance with this subsection.”

Subsec. (f). Pub. L. 108–327, § 2, reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “There is authorized to be appropriated to the Secretary of the Interior to carry out subsections (b), (c), (d), and (e) of this section $2,000,000 for each of fiscal years 1999 through 2004.”

1998—Subsec. (b)(2). Pub. L. 105–242, § 3, inserted par. (2) heading, designated existing provisions as subpar. (A) and inserted heading, and added subpar. (B).

Subsec. (c)(2). Pub. L. 105–242, § 4(b), inserted “awards (including nominal cash awards) and recognition,” after “lodging,” and “without regard to their places of residence” after “volunteers”.

Subsec. (c)(6). Pub. L. 105–242, § 4(c), added par. (6) and struck out former par. (6) which read as follows: “There are authorized to be appropriated to carry out this subsection $100,000 for the Secretary of the Interior and $50,000 for the Secretary of Commerce for each of the fiscal years 1980, 1981, 1982, 1983, 1984, 1985, and 1986.”

Subsecs. (d) to (f). Pub. L. 105–242, §§ 5–7, added subsecs. (d) to (f).


Subsecs. (b), (c). Pub. L. 95–616, § 4(3), added subsecs. (b) and (c).

Transfer of Functions


Congressional Findings and Purposes


“(a) Findings.—Congress finds that—

“(1) the National Wildlife Refuge System (referred to in this Act [amending this section and enacting provisions set out as notes under this section and section 742a of this title] as the ‘System’), consisting of more than 500 refuges and 93,000,000 acres, plays an integral role in the protection of the natural resources of the United States;

“(2) the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105–57; 111 Stat. 1252) [see Tables for classification] significantly improved the law governing the System, although the financial resources for implementing this law and managing the System remain limited;

“(3) by encouraging volunteer programs and donations, and facilitating non-Federal partnerships with refuges, Federal funding for the refuges can be supplemented and the System can fully benefit from the amendments made by the National Wildlife Refuge System Improvement Act of 1997; and

“(4) by encouraging refuge educational programs, public awareness of the resources of the System and public participation in the conservation of those resources can be promoted.

“(b) Purposes.—The purposes of this Act are—

“(1) to encourage the use of volunteers to assist the United States Fish and Wildlife Service in the management of refuges within the System;
“(2) to facilitate partnerships between the System and non-Federal entities to promote public awareness of the resources of the System and public participation in the conservation of those resources; and

“(3) to encourage donations and other contributions by persons and organizations to the System.”

**Pilot Projects**