

amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

PART C—WATER RESOURCES PROJECTS

§ 4601-12. Recreation and fish and wildlife benefits of Federal multiple-purpose water resources projects; Congressional declaration of policy

It is the policy of the Congress and the intent of this part (a) in investigating and planning any Federal navigation, flood control, reclamation, hydroelectric, or multiple-purpose water resource project, full consideration shall be given to the opportunities, if any, which the project affords for outdoor recreation and for fish and wildlife enhancement and that, whenever any such project can reasonably serve either or both of these purposes consistently with the provisions of this part, it shall be constructed, operated, and maintained accordingly; (b) planning with respect to the development of the recreation potential of any such project shall be based on the coordination of the recreational use of the project area with the use of existing and planned Federal, State, or local public recreation developments; and (c) project construction agencies shall encourage non-Federal public bodies to administer project land and water areas for recreation and fish and wildlife enhancement purposes and operate, maintain, and replace facilities provided for those purposes unless such areas or facilities are included or proposed for inclusion within a national recreation area, or are appropriate for administration by a Federal agency as a part of the national forest system, as a part of the public lands classified for retention in Federal ownership, or in connection with an authorized Federal program for the conservation and development of fish and wildlife.

(Pub. L. 89-72, § 1, July 9, 1965, 79 Stat. 213.)

REFERENCES IN TEXT

This part, referred to in text, was in the original "this Act", meaning Pub. L. 89-72, which enacted sections 4601-12 to 4601-21 of this title and amended sections 4601-5(a) and 662(d) of this title.

SHORT TITLE

Section 12 of Pub. L. 89-72 provided: "This Act [enacting this section and sections 4601-13 to 4601-21 of this title and amending sections 4601-5(a) and 662(d) of this title], may be cited as the 'Federal Water Project Recreation Act'."

§ 4601-13. Non-Federal administration of project land and water areas

(a) Allocation of costs

If, before authorization of a project, non-Federal public bodies indicate their intent in writing to agree to administer project land and water areas for recreation or fish and wildlife enhancement or for both of these purposes pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and to bear not less than one-half the separable costs of

the project allocated to recreation, and to bear one-quarter of such costs allocated to fish and wildlife enhancement and not less than one-half the costs of operation, maintenance, and replacement incurred therefor—

(1) the benefits of the project to said purpose or purposes shall be taken into account in determining the economic benefits of the project;

(2) costs shall be allocated to said purpose or purposes and to other purposes in a manner which will insure that all project purposes share equitably in the advantages of multiple-purpose construction: *Provided*, That the costs allocated to recreation or fish and wildlife enhancement shall not exceed the lesser of the benefits from those functions or the costs of providing recreation or fish and wildlife enhancement benefits or reasonably equivalent use and location by the least costly alternative means; and

(3) not more than one-half the separable costs of the project allocated to recreation and exactly three-quarters of such costs allocated to fish and wildlife enhancement and all the joint costs of the project allocated to recreation and fish and wildlife enhancement shall be borne by the United States and be nonreimbursable.

Projects authorized during the calendar year 1965 may include recreation and fish and wildlife enhancement on the foregoing basis without the required indication of intent. Execution of an agreement as aforesaid shall be a prerequisite to commencement of construction of any project to which this subsection is applicable.

(b) Non-Federal share of costs

The non-Federal share of the separable costs of the project allocated to recreation and fish and wildlife enhancement shall be borne by non-Federal interests, under either or both of the following methods as may be determined appropriate by the head of the Federal agency having jurisdiction over the project: (1) payment, or provision of lands, interests therein, or facilities for the project; or (2) repayment, with interest at a rate comparable to that for other interest-bearing functions of Federal water resource projects, within fifty years of first use of project recreation or fish and wildlife enhancement facilities: *Provided*, That the source of repayment may be limited to entrance and user fees or charges collected at the project by non-Federal interests if the fee schedule and the portion of fees dedicated to repayment are established on a basis calculated to achieve repayment as aforesaid and are made subject to review and renegotiation at intervals of not more than five years.

(Pub. L. 89-72, § 2, July 9, 1965, 79 Stat. 214; Pub. L. 93-251, title I, § 77(a)(1), (2), Mar. 7, 1974, 88 Stat. 33; Pub. L. 102-575, title XXVIII, § 2804(a), Oct. 30, 1992, 106 Stat. 4691.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-575 substituted "not less than one-half the costs of operation" for "all the costs of operation" in introductory provisions.

1974—Subsec. (a). Pub. L. 93-251 substituted in text preceding item (1) "separable costs of the project allocated to recreation, and to bear one-quarter of such

costs allocated to fish and wildlife enhancement” for “separable costs of the project allocated to either or both of said purposes, as the case may be” and in item (3) “separable costs of the project allocated to recreation and exactly three-quarters of such costs allocated to fish and wildlife enhancement” for “separable costs”, respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 77(b) of Pub. L. 93-251 provided that: “The amendments made by this section [amending this section and section 4601-14 of this title] shall apply to all projects the construction of which is not substantially completed on the date of enactment of this Act [Mar. 7, 1974].”

COST SHARING REQUIREMENTS

Section 77(c) of Pub. L. 93-251 provided that: “In the case of any project (1) authorized subject to specific cost-sharing requirements which were based on the same percentages as those established in the Federal Water Project Recreation Act [section 4601-12 et seq. of this title], and (2) construction of which is not substantially completed on the date of enactment of this Act [Mar. 7, 1974], the cost-sharing requirements for such project shall be the same percentages as are established by the amendments made by subsection (a) of this section [to subsec. (a) of this section and section 4601-14(b)(1) of this title] for projects which are subject to the Federal Water Project Recreation Act [section 4601-12 et seq. of this title].”

§ 4601-14. Facilities or project modifications to be provided without written indication of intent

(a) Other project purposes as justification; public health and safety requirement of minimum facilities at access points; basis for calculation of benefits; nonreimbursable costs

No facilities or project modifications which will furnish recreation or fish and wildlife enhancement benefits shall be provided in the absence of the indication of intent with respect thereto specified in section 4601-13(a) of this title unless (1) such facilities or modifications serve other project purposes and are justified thereby without regard to such incidental recreation or fish and wildlife enhancement benefits as they may have or (2) they are minimum facilities which are required for the public health and safety and are located at access points provided by roads existing at the time of project construction or constructed for the administration and management of the project. Calculation of the recreation and fish and wildlife enhancement benefits in any such case shall be based on the number of visitor-days anticipated in the absence of recreation and fish and wildlife enhancement facilities or modifications except as hereinbefore provided and on the value per visitor-day of the project without such facilities or modifications. Project costs allocated to recreation and fish and wildlife enhancement on this basis shall be nonreimbursable.

(b) Preservation of recreation and fish and wildlife enhancement potential; execution of agreements within ten year period; disposition of lands in absence of such agreements, prohibition against uses conflicting with project purposes, and preference to uses promoting and not detracting from such potential

Notwithstanding the absence of an indication of intent as specified in section 4601-13(a) of this

title, lands may be provided in connection with project construction to preserve the recreation and fish and wildlife enhancement potential of the project:

(1) If non-Federal public bodies execute an agreement after initial operation of the project (which agreement shall provide that the non-Federal public bodies will administer project land and water areas for recreation or fish and wildlife enhancement or both pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and will bear not less than one-half the costs of lands, facilities, and project modifications provided for recreation, and will bear one-quarter of such costs for fish and wildlife enhancement, and not less than one-half the costs of planning studies, and the costs of operation, maintenance, and replacement attributable thereto) the remainder of the costs of lands, facilities, and project modifications provided pursuant to this paragraph shall be nonreimbursable. Such agreement and subsequent development, however, shall not be the basis for any reallocation of joint costs of the project to recreation or fish and wildlife enhancement.

(2) If, within ten years after initial operation of the project, there is not an executed agreement as specified in paragraph (1) of this subsection, the head of the agency having jurisdiction over the project may utilize the lands for any lawful purpose within the jurisdiction of his agency, or may offer the land for sale to its immediate prior owner or his immediate heirs at its appraised fair market value as approved by the head of the agency at the time of offer or, if a firm agreement by said owner or his immediate heirs is not executed within ninety days of the date of the offer, may transfer custody of the lands to another Federal agency for use for any lawful purpose within the jurisdiction of that agency, or may lease the lands to a non-Federal public body, or may transfer the lands to the Administrator of General Services for disposition in accordance with the surplus property laws of the United States. In no case shall the lands be used or made available for use for any purpose in conflict with the purposes for which the project was constructed, and in every case except that of an offer to purchase made, as hereinbefore provided, by the prior owner or his heirs preference shall be given to uses which will preserve and promote the recreation and fish and wildlife enhancement potential of the project or, in the absence thereof, will not detract from that potential.

(c) Expansion or modification of existing facilities

(1) Any recreation facility constructed under this part may be expanded or modified if—

(A) the facility is inadequate to meet recreational demands; and

(B) a non-Federal public body executes an agreement which provides that such public body—

(i) will administer the expanded or modified facilities pursuant to a plan for develop-