

share of the cost of any project may be allocated for this purpose with a finding as to the part of such allocated cost, if any, to be reimbursed by non-Federal interests.

(d) Project costs

The cost of planning for and the construction or installation and maintenance of such means and measures adopted to carry out the conservation purposes of this section shall constitute an integral part of the cost of such projects: *Provided*, That such cost attributable to the development and improvement of wildlife shall not extend beyond that necessary for (1) land acquisition, (2) facilities as specifically recommended in water resource project reports, (3) modification of the project, and (4) modification of project operations, but shall not include the operation of wildlife facilities.

(e) Transfer of funds

In the case of construction by a Federal agency, that agency is authorized to transfer to the United States Fish and Wildlife Service, out of appropriations or other funds made available for investigations, engineering, or construction, such funds as may be necessary to conduct all or part of the investigations required to carry out the purposes of this section.

(f) Estimation of wildlife benefits or losses

In addition to other requirements, there shall be included in any report submitted to Congress supporting a recommendation for authorization of any new project for the control or use of water as described herein (including any new division of such project or new supplemental works on such project) an estimation of the wildlife benefits or losses to be derived therefrom including benefits to be derived from measures recommended specifically for the development and improvement of wildlife resources, the cost of providing wildlife benefits (including the cost of additional facilities to be installed or lands to be acquired specifically for that particular phase of wildlife conservation relating to the development and improvement of wildlife), the part of the cost of joint-use facilities allocated to wildlife, and the part of such costs, if any, to be reimbursed by non-Federal interests.

(g) Applicability to projects

The provisions of this section shall be applicable with respect to any project for the control or use of water as prescribed herein, or any unit of such project authorized before or after the date of enactment of the Fish and Wildlife Coordination Act for planning or construction, but shall not be applicable to any project or unit thereof authorized before the date of enactment of the Fish and Wildlife Coordination Act if the construction of the particular project or unit thereof has been substantially completed. A project or unit thereof shall be considered to be substantially completed when sixty percent or more of the estimated construction cost has been obligated for expenditure.

(h) Exempt projects and activities

The provisions of section 661 to 666c of this title shall not be applicable to those projects for the impoundment of water where the maximum surface area of such impoundments is less than

ten acres, nor to activities for or in connection with programs primarily for land management and use carried out by Federal agencies with respect to Federal lands under their jurisdiction.

(Mar. 10, 1934, ch. 55, §2, 48 Stat. 401; 1939 Reorg. Plan No. II, §4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Aug. 14, 1946, ch. 965, 60 Stat. 1080; Pub. L. 85-624, §2, Aug. 12, 1958, 72 Stat. 564; Pub. L. 89-72, §6(b), July 9, 1965, 79 Stat. 216.)

REFERENCES IN TEXT

The date of enactment of the Fish and Wildlife Coordination Act, referred to in subsecs. (c) and (g), probably refers to the date of enactment of Pub. L. 85-624, Aug. 12, 1958. See, also, Short Title note set out under section 661 of this title.

AMENDMENTS

1965—Subsec. (d). Pub. L. 89-72 added cl. (2) to proviso, redesignated cls. (2) and (3) thereof as (3) and (4), struck out “nor the construction of such facilities beyond those herein described” after “wildlife facilities” and struck out a second proviso which applied to projects constructed under Federal reclamation laws and required the Secretary of the Interior, in addition to allocations made under section 485h of Title 43, to make findings on part of estimated cost of the project which can properly be allocated to means and measures to prevent loss and damage to wildlife resources, which costs shall not be reimbursable, and provided for allocation of project costs to development and improvement of wildlife resources, now covered by sections 4607-12 to 4607-21 of this title.

1958—Pub. L. 85-624 amended section generally to require consultations with a view to the conservation of resources by providing for the development and improvement thereof in connection with water-resource development, to provide for inclusion of reports and recommendations of the Secretary of the Interior and of the heads of State agencies in reports prepared or submitted by agencies responsible for engineering surveys and construction of projects when such reports are presented to the Congress or to any agency or person having the authority or the power to authorize the construction of water-resource development projects or to approve a report on the modification or supplementation of plans for previously authorized projects, to authorize modification of projects and acquisition of lands, and to require an estimation of benefits or losses to wildlife to be incorporated in the reports submitted to the Congress.

1946—Act Aug. 14, 1946, amended section generally to provide for consultations between any agencies and the Fish and Wildlife Service and head of State agency exercising administration over State wildlife resources prior to the impounding of water in order to prevent loss and damage to wildlife resources. Former provisions of this section are covered by section 665 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note set out under section 661 of this title.

§ 663. Impoundment or diversion of waters

(a) Conservation, maintenance, and management of wildlife resources; development and improvement

Subject to the exceptions prescribed in section 662(h) of this title, whenever the waters of any stream or other body of water are impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage, by any department or

agency of the United States, adequate provision, consistent with the primary purposes of such impoundment, diversion, or other control, shall be made for the use thereof, together with any areas of land, water, or interests therein, acquired or administered by a Federal agency in connection therewith, for the conservation, maintenance, and management of wildlife resources thereof, and its habitat thereon, including the development and improvement of such wildlife resources pursuant to the provisions of section 662 of this title.

(b) Use and availability of waters, land, or interests therein

The use of such waters, land, or interests therein for wildlife conservation purposes shall be in accordance with general plans approved jointly (1) by the head of the particular department or agency exercising primary administration in each instance, (2) by the Secretary of the Interior, and (3) by the head of the agency exercising the administration of the wildlife resources of the particular State wherein the waters and areas lie. Such waters and other interests shall be made available, without cost for administration, by such State agency, if the management of the properties relate to the conservation of wildlife other than migratory birds, or by the Secretary of the Interior, for administration in such manner as he may deem advisable, where the particular properties have value in carrying out the national migratory bird management program: *Provided*, That nothing in this section shall be construed as affecting the authority of the Secretary of Agriculture to cooperate with the States or in making lands available to the States with respect to the management of wildlife and wildlife habitat on lands administered by him.

(c) Acquisition of land, waters, and interests therein; report to Congress

When consistent with the purposes of sections 661 to 666c of this title and the reports and findings of the Secretary of the Interior prepared in accordance with section 662 of this title, land, waters, and interests therein may be acquired by Federal construction agencies for the wildlife conservation and development purposes of sections 661 to 666c of this title in connection with a project as reasonably needed to preserve and assure for the public benefit the wildlife potentials of the particular project area: *Provided*, That before properties are acquired for this purpose, the probable extent of such acquisition shall be set forth, along with other data necessary for project authorization, in a report submitted to the Congress, or in the case of a project previously authorized, no such properties shall be acquired unless specifically authorized by Congress, if specific authority for such acquisition is recommended by the construction agency.

(d) Use of acquired properties

Properties acquired for the purposes of this section shall continue to be used for such purposes, and shall not become the subject of exchange or other transactions if such exchange or other transaction would defeat the initial purpose of their acquisition.

(e) Availability of Federal lands acquired or withdrawn for Federal water-resource purposes

Federal lands acquired or withdrawn for Federal water-resource purposes and made available to the States or to the Secretary of the Interior for wildlife management purposes, shall be made available for such purposes in accordance with sections 661 to 666c of this title, notwithstanding other provisions of law.

(f) National forest lands

Any lands acquired pursuant to this section by any Federal agency within the exterior boundaries of a national forest shall, upon acquisition, be added to and become national forest lands, and shall be administered as a part of the forest within which they are situated, subject to all laws applicable to lands acquired under the provisions of the Act of March 1, 1911 (36 Stat. 961), unless such lands are acquired to carry out the National Migratory Bird Management Program. (Mar. 10, 1934, ch. 55, § 3, 48 Stat. 401; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 14, 1946, ch. 965, 60 Stat. 1080; Pub. L. 85-624, § 2, Aug. 12, 1958, 72 Stat. 566.)

REFERENCES IN TEXT

Act of March 1, 1911, referred to in text, is act Mar. 1, 1911, ch. 186, 36 Stat. 961, popularly known as the Weeks Law, which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 552 of this title and Tables.

AMENDMENTS

1958—Subsec. (a). Pub. L. 85-624 designated first sentence of existing provisions as subsec. (a), and, among other changes, inserted “Subject to the exceptions prescribed in section 662(h) of this title” before “whenever the waters”, substituted “diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever, including navigation and drainage” for “diverted, or otherwise controlled for any purpose whatever”, and inserted provisions requiring adequate provision to be made for the development and improvement of wildlife resources pursuant to the provisions of section 662 of this title.

Subsec. (b). Pub. L. 85-624 designated second sentence of existing provisions as subsec. (b), included the use of land for wildlife conservation purpose, and provided that nothing in this section shall be construed as effecting the authority of the Secretary of Agriculture to cooperate with the States or in making lands available to the States with respect to the management of wildlife and wildlife habitat on lands administered by him.

Subsecs. (c) to (f). Pub. L. 85-624 added subsecs. (c) to (f).

1946—Act Aug. 14, 1946, amended section generally to provide for conservation and maintenance of wildlife resources upon impounding of waters, and to provide for free use of waters under certain conditions.

TRANSFER OF FUNCTIONS

See Transfer of Functions note set out under section 661 of this title.

§ 664. Administration; rules and regulations; availability of lands to State agencies

Such areas as are made available to the Secretary of the Interior for the purposes of sections 661 to 666c of this title, pursuant to sections 661 and 663 of this title or pursuant to any