

2003.” for “not to exceed \$20,000,000 for each of fiscal years 1995 and 1996 and \$30,000,000 for each of fiscal years 1997 and 1998.”

1994—Subsec. (c). Pub. L. 103-375 substituted “\$20,000,000 for each of fiscal years 1995 and 1996 and \$30,000,000 for each of fiscal years 1997 and 1998” for “\$15,000,000 for each of fiscal years 1991, 1992, 1993, and 1994”.

#### **§ 4407. Allocation of amounts available to carry out this chapter**

##### **(a) Allocations**

Of the sums available to the Secretary for any fiscal year under this chapter and section 669b(b) of this title—

(1) such percentage of that sum (but at least 30 percent and not more than 60 percent) as is considered appropriate by the Secretary, which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, less such amount (but not more than 4 percent of such percentage) considered necessary by the Secretary to defray the costs of administering this chapter during such fiscal year, shall be allocated by the Secretary to carry out approved wetlands conservation projects in Canada and Mexico in accordance with section 4405(b) of this title; and

(2) the remainder of such sum after paragraph (1) is applied (but at least 40 percent and not more than 70 percent), which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation projects in the United States in accordance with section 4405(a) of this title.

##### **(b) Cost sharing**

(1) Except as provided in paragraph (2), as a condition of providing assistance under this chapter for any approved wetlands conservation project, the Secretary shall require that the portion of the costs of the project paid with amounts provided by non-Federal United States sources is equal to at least the amount allocated under subsection (a) that is used for the project.

(2) Federal moneys allocated under subsection (a) may be used to pay 100 percent of the costs of such projects located on Federal lands and waters, including the acquisition of inholdings within such lands and waters.

(3) The non-Federal share of the United States contribution to the costs of such projects may not be derived from Federal grant programs. In the case of a project carried out in Canada or Mexico, the non-Federal share of the costs of the project may include cash contributions from non-United States sources that are used to pay costs of the project. In the case of a project carried out in Canada, funds from Canadian sources may comprise up to 50 percent of the non-Federal share of the costs of the project.

##### **(c) Partial payments**

(1) The Secretary may from time to time make payments to carry out approved wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (b) of this section.

(2) The Secretary may enter into agreements to make payments on an initial portion of an approved wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent allocations if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purposes of this chapter.

(Pub. L. 101-233, § 8, Dec. 13, 1989, 103 Stat. 1975; Pub. L. 103-375, § 2(a), Oct. 19, 1994, 108 Stat. 3494; Pub. L. 107-308, §§ 6, 7, Dec. 2, 2002, 116 Stat. 2447; Pub. L. 111-149, § 1(a), Mar. 25, 2010, 124 Stat. 1025.)

#### **Editorial Notes**

##### **AMENDMENTS**

2010—Subsec. (b)(3). Pub. L. 111-149 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “The non-Federal share of the United States contribution to the costs of such projects may not be derived from Federal grant programs. In the case of a project carried out in Mexico, the non-Federal share of the United States contribution to the costs of the project may include cash contributions from non-United States sources that are used to pay costs of the project.”

2002—Subsec. (a)(1). Pub. L. 107-308, § 6(1), substituted “(but at least 30 percent and not more than 60 percent)” for “(but at least 50 per centum and not more than 70 per centum thereof)” and “4 percent” for “4 per centum”.

Subsec. (a)(2). Pub. L. 107-308, § 6(2), substituted “(but at least 40 percent and not more than 70 percent)” for “(but at least 30 per centum and not more than 50 per centum thereof)”.

Subsec. (b). Pub. L. 107-308, § 7, substituted heading for former heading, substituted pars. (1) and (2) for first sentence which read as follows: “The Federal moneys allocated under subsection (a) of this section for any fiscal year to carry out approved wetlands conservation projects shall be used for the payment of not to exceed 50 per centum of the total United States contribution to the costs of such projects, or may be used for payment of 100 per centum of the costs of such projects located on Federal lands and waters, including the acquisition of inholdings within such lands and waters.”, and designated second and third sentences as par. (3).

1994—Subsec. (b). Pub. L. 103-375 inserted at end “In the case of a project carried out in Mexico, the non-Federal share of the United States contribution to the costs of the project may include cash contributions from non-United States sources that are used to pay costs of the project.”

#### **Statutory Notes and Related Subsidiaries**

##### **EFFECTIVE DATE OF 2010 AMENDMENT**

Pub. L. 111-149, § 1(b), Mar. 25, 2010, 124 Stat. 1025, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to any approved and active wetlands conservation project (as that term is used in section 8(b)(1) of such Act [16 U.S.C. 4407(b)(1)]) carried out with assistance provided under such Act [Pub. L. 101-233, 16 U.S.C. 4401 et seq.], including such a project approved before the date of the enactment of this Act [Mar. 25, 2010].”

#### **§ 4408. Restoration, management, and protection of wetlands and habitat for migratory birds on Federal lands**

The head of each Federal agency responsible for acquiring, managing, or disposing of Federal lands and waters shall, to the extent consistent

with the mission of such agency and existing statutory authorities, cooperate with the Director of the United States Fish and Wildlife Service to restore, protect, and enhance the wetland ecosystems and other habitats for migratory birds, fish, and wildlife within the lands and waters of each such agency.

(Pub. L. 101-233, §9, Dec. 13, 1989, 103 Stat. 1976.)

#### § 4409. Report to Congress

The Secretary shall report to the appropriate Committees on the implementation of this chapter. The report shall include—

(1) a biennial assessment of—

(A) the estimated number of acres of wetlands and habitat for waterfowl and other migratory birds that were restored, protected, or enhanced during such two-year period by Federal, State, and local agencies and other entities in the United States, Canada, and Mexico;

(B) trends in the population size and distribution of North American migratory birds;

(C) the status of efforts to establish agreements with nations in the Western Hemisphere pursuant to section 4413 of this title; and

(D) wetlands conservation projects funded under this chapter, listed and identified by type, conservation mechanism (such as acquisition, easement, or lease), location, and duration; and

(2) an annual assessment of the status of wetlands conservation projects, including an accounting of expenditures by Federal, State, and other United States entities, and expenditures by Canadian and Mexican sources to carry out these projects.

(Pub. L. 101-233, §10, Dec. 13, 1989, 103 Stat. 1976; Pub. L. 103-375, §2(b), Oct. 19, 1994, 108 Stat. 3494; Pub. L. 107-308, §8(a)(12), (13), Dec. 2, 2002, 116 Stat. 2448.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 4413 of this title, referred to in par. (1)(C), was in the original a reference to section 16 of Pub. L. 101-233 which enacted section 4413 of this title and amended section 2912 of this title.

##### AMENDMENTS

2002—Par. (1)(C). Pub. L. 107-308, §8(a)(12), substituted “Western Hemisphere” for “western hemisphere” and made technical amendment to reference in original act which appears in text as reference to section 4413 of this title.

Par. (1)(D). Pub. L. 107-308, §8(a)(13), substituted “; and” for period at end.

1994—Par. (1)(D). Pub. L. 103-375 added subpar. (D).

#### § 4410. Revisions to Plan

The Secretary shall, in 1998 and at five-year intervals thereafter, undertake with the appropriate officials in Canada and Mexico to revise the goals and other elements of the Plan in accordance with the information required under section 4409 of this title and with the other provisions of this chapter.

(Pub. L. 101-233, §11, Dec. 13, 1989, 103 Stat. 1976; Pub. L. 103-375, §2(c), Oct. 19, 1994, 108 Stat. 3494.)

#### Editorial Notes

##### AMENDMENTS

1994—Pub. L. 103-375 substituted “1998” for “1991”, inserted “and Mexico” after “Canada”, and struck out at end “The Secretary shall invite and encourage the appropriate officials in Mexico to participate in any revisions of the Plan.”

#### § 4411. Relationship to other authorities

##### (a) Acquisition of lands and waters

Nothing in this chapter affects, alters, or modifies the Secretary’s authorities, responsibilities, obligations, or powers to acquire lands or waters or interests therein under any other statute.

##### (b) Mitigation

The Federal funds made available under this chapter and section 669b(b) of this title may not be used for fish and wildlife mitigation purposes under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) or the Water Resources Development Act of 1986, Public Law 99-662 (1986), 100 Stat. 4235.

(Pub. L. 101-233, §12, Dec. 13, 1989, 103 Stat. 1977.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Fish and Wildlife Coordination Act, referred to in subsec. (b), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, which is classified generally to sections 661 to 666c-1 of this title. For complete classification of this Act to the Code, see section 661(a) of this title, Short Title note set out under section 661 of this title, and Tables.

The Water Resources Development Act of 1986, referred to in subsec. (b), is Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4082, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of Title 33, Navigation and Navigable Waters, and Tables.

#### § 4412. Limitation on assessments against Migratory Bird Conservation Fund

Notwithstanding any other provision of law, only those personnel and administrative costs directly related to acquisition of real property shall be levied against the Migratory Bird Conservation Account.<sup>1</sup>

(Pub. L. 101-233, §14, Dec. 13, 1989, 103 Stat. 1977.)

#### § 4413. Other agreements

The Secretary shall undertake with the appropriate officials of nations in the Western Hemisphere to establish agreements, modeled after the Plan or the Agreement, for the protection of migratory birds identified in section 2912(a)(5) of this title. When any such agreements are reached, the Secretary shall make recommendations to the appropriate Committees on legislation necessary to implement the agreements.

(Pub. L. 101-233, §16(a), Dec. 13, 1989, 103 Stat. 1977; Pub. L. 107-308, §8(a)(14), Dec. 2, 2002, 116 Stat. 2448.)

<sup>1</sup>So in original. Probably should be “Fund”. See section 718d of this title.