

ARCTIC TUNDRA HABITAT EMERGENCY CONSERVATION

Pub. L. 106-108, Nov. 24, 1999, 113 Stat. 1491, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Arctic Tundra Habitat Emergency Conservation Act’.

“SEC. 2. FINDINGS AND PURPOSES.

“(a) FINDINGS.—The Congress finds the following:

“(1) The winter index population of mid-continent light geese was 800,000 birds in 1969, while the total population of such geese is more than 5,200,000 birds today.

“(2) The population of mid-continent light geese is expanding by over 5 percent each year, and in the absence of new wildlife management actions it could grow to more than 6,800,000 breeding light geese in 3 years.

“(3) The primary reasons for this unprecedented population growth are—

“(A) the expansion of agricultural areas and the resulting abundance of cereal grain crops in the United States;

“(B) the establishment of sanctuaries along the United States flyways of migrating light geese; and

“(C) a decline in light geese harvest rates.

“(4) As a direct result of this population explosion, the Hudson Bay Lowlands Salt-Marsh ecosystem in Canada is being systematically destroyed. This ecosystem contains approximately 135,000 acres of essential habitat for migrating light geese and many other avian species. Biologists have testified that one-third of this habitat has been destroyed, one-third is on the brink of devastation, and the remaining one-third is overgrazed.

“(5) The destruction of the Arctic tundra is having a severe negative impact on many avian species that breed or migrate through this habitat, including the following:

“(A) Canada Goose.

“(B) American Wigeon.

“(C) Dowitcher.

“(D) Hudsonian Godwit.

“(E) Stilt Sandpiper.

“(F) Northern Shoveler.

“(G) Red-Breasted Merganser.

“(H) Oldsquaw.

“(I) Parasitic Jaeger.

“(J) Whimbrel.

“(K) Yellow Rail.

“(6) It is essential that the current population of mid-continent light geese be reduced by 50 percent by the year 2005 to ensure that the fragile Arctic tundra is not irreversibly damaged.

“(b) PURPOSES.—The purposes of this Act are the following:

“(1) To reduce the population of mid-continent light geese.

“(2) To assure the long-term conservation of mid-continent light geese and the biological diversity of the ecosystem upon which many North American migratory birds depend.

“SEC. 3. FORCE AND EFFECT OF RULES TO CONTROL OVERABUNDANT MID-CONTINENT LIGHT GEESE POPULATIONS.

“(a) FORCE AND EFFECT.—

“(1) IN GENERAL.—The rules published by the Service on February 16, 1999, relating to use of additional hunting methods to increase the harvest of mid-continent light geese (64 Fed. Reg. 7507-7517) and the establishment of a conservation order for the reduction of mid-continent light goose populations (64 Fed. Reg. 7517-7528), shall have the force and effect of law.

“(2) PUBLIC NOTICE.—The Secretary, acting through the Director of the Service, shall take such action as is necessary to appropriately notify the public of the force and effect of the rules referred to in paragraph (1).

“(b) APPLICATION.—Subsection (a) shall apply only during the period that—

“(1) begins on the date of the enactment of this Act [Nov. 24, 1999]; and

“(2) ends on the latest of—

“(A) the effective date of rules issued by the Service after such date of the enactment to control overabundant mid-continent light geese populations;

“(B) the date of the publication of a final environmental impact statement for such rules under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

“(C) May 15, 2001.

“(c) RULE OF CONSTRUCTION.—This section shall not be construed to limit the authority of the Secretary or the Service to issue rules, under another law, to regulate the taking of mid-continent light geese.

“SEC. 4. COMPREHENSIVE MANAGEMENT PLAN.

“(a) IN GENERAL.—Not later than the end of the period described in section 103(b) [probably means section 3(b)], the Secretary shall prepare, and as appropriate implement, a comprehensive, long-term plan for the management of mid-continent light geese and the conservation of their habitat.

“(b) REQUIRED ELEMENTS.—The plan shall apply principles of adaptive resource management and shall include—

“(1) a description of methods for monitoring the levels of populations and the levels of harvest of mid-continent light geese, and recommendations concerning long-term harvest levels;

“(2) recommendations concerning other means for the management of mid-continent light goose populations, taking into account the reasons for the population growth specified in section 102(a)(3) [probably means section 2(a)(3)];

“(3) an assessment of, and recommendations relating to, conservation of the breeding habitat of mid-continent light geese;

“(4) an assessment of, and recommendations relating to, conservation of native species of wildlife adversely affected by the overabundance of mid-continent light geese, including the species specified in section 102(a)(5) [probably means section 2(a)(5)]; and

“(5) an identification of methods for promoting collaboration with the Government of Canada, States, and other interested persons.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 2000 through 2002.

“SEC. 5. DEFINITIONS.

“In this Act:

“(1) MID-CONTINENT LIGHT GEESE.—The term ‘mid-continent light geese’ means Lesser snow geese (*Anser caerulescens caerulescens*) and Ross’ geese (*Anser rossii*) that primarily migrate between Canada and the States of Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.

“(3) SERVICE.—The term ‘Service’ means the United States Fish and Wildlife Service.”

§ 704. Determination as to when and how migratory birds may be taken, killed, or possessed

(a) Subject to the provisions and in order to carry out the purposes of the conventions, referred to in section 703 of this title, the Secretary of the Interior is authorized and directed, from time to time, having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and

times and lines of migratory flight of such birds, to determine when, to what extent, if at all, and by what means, it is compatible with the terms of the conventions to allow hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any such bird, or any part, nest, or egg thereof, and to adopt suitable regulations permitting and governing the same, in accordance with such determinations, which regulations shall become effective when approved by the President.

(b) It shall be unlawful for any person to—

(1) take any migratory game bird by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area; or

(2) place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting on or over the baited area.

(c) FEDERAL FRAMEWORK CLOSING DATE FOR HUNTING OF DUCKS, MERGANSERS, AND COOTS.—

(1) REGULATIONS RELATING TO FRAMEWORK CLOSING DATE.—

(A) IN GENERAL.—In promulgating regulations under subsection (a) relating to the Federal framework for the closing date up to which the States may select seasons for migratory bird hunting, except as provided in paragraph (2), the Secretary shall, with respect to the hunting season for ducks, mergansers, and coots—

(i) subject to subparagraph (B), adopt the recommendation of each respective flyway council (as defined in section 20.152 of title 50, Code of Federal Regulations) for the Federal framework if the Secretary determines that the recommendation is consistent with science-based and sustainable harvest management; and

(ii) allow the States to establish the closing date for the hunting season in accordance with the Federal framework.

(B) REQUIREMENT.—The framework closing date promulgated by the Secretary under subparagraph (A) shall not be later than January 31 of each year.

(2) SPECIAL HUNTING DAYS FOR YOUTHS, VETERANS, AND ACTIVE MILITARY PERSONNEL.—

(A) IN GENERAL.—Notwithstanding the Federal framework closing date under paragraph (1) and subject to subparagraphs (B) and (C), the Secretary shall allow States to select 2 days for youths and 2 days for veterans (as defined in section 101 of title 38) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than for training), to hunt eligible ducks, geese, swans, mergansers, coots, moorhens, and gallinules, if the Secretary determines that the addition of those days is consistent with science-based and sustainable harvest management. Such days shall be treated as separate from, and in addition to, the annual Federal framework hunting season lengths.

(B) REQUIREMENTS.—In selecting days under subparagraph (A), a State shall ensure that—

(i) the days selected—

(I) may only include the hunting of duck, geese, swan, merganser, coot, moorhen, and gallinule species that are eligible for hunting under the applicable annual Federal framework;

(II) are not more than 14 days before or after the Federal framework hunting season for ducks, mergansers, and coots; and

(III) are otherwise consistent with the Federal framework; and

(ii) the total number of days in a hunting season for any migratory bird species, including any days selected under subparagraph (A), is not more than 107 days.

(C) LIMITATION.—A State may combine the 2 days allowed for youths with the 2 days allowed for veterans and members of the Armed Forces on active duty under subparagraph (A), but in no circumstance may a State have more than a total of 4 additional days added to its regular hunting season for any purpose.

(3) REGULATIONS.—The Secretary shall promulgate regulations in accordance with this subsection for the Federal framework for migratory bird hunting for the 2019–2020 hunting season and each hunting season thereafter.

(July 3, 1918, ch. 128, §3, 40 Stat. 755; June 20, 1936, ch. 634, §2, 49 Stat. 1556; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 105–312, title I, §102, Oct. 30, 1998, 112 Stat. 2956; Pub. L. 116–9, title IV, §4301, Mar. 12, 2019, 133 Stat. 764.)

Editorial Notes

AMENDMENTS

2019—Subsec. (c). Pub. L. 116–9 added subsec. (c).

1998—Pub. L. 105–312 designated existing provisions as subsec. (a) and added subsec. (b).

1936—Act June 20, 1936, substituted “conventions” for “convention” in two places.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1936 AMENDMENT

Act June 20, 1936, ch. 634, §2, 49 Stat. 1556, provided in part that the amendment by section 2 is effective as of the day aforesaid (June 30, 1937). See note under section 703 of this title.

BAITING OF MIGRATORY GAME BIRDS

Pub. L. 115–334, title XII, §12601, Dec. 20, 2018, 132 Stat. 5003, provided that:

“(a) DEFINITIONS.—In this section:

“(1) NORMAL AGRICULTURAL OPERATION.—The term ‘normal agricultural operation’ has the meaning given the term in section 20.11 of title 50, Code of Federal Regulations (as in effect on the date of enactment of this Act [Dec. 20, 2018]).

“(2) POST-DISASTER FLOODING.—The term ‘post-disaster flooding’ means the destruction of a crop through flooding in accordance with practices required by the Federal Crop Insurance Corporation for agricultural producers to obtain crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) on land on which a crop was not harvestable due to a natural disaster (including any hurricane, storm, tornado, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, land-

slide, mudslide, drought, fire, snowstorm, or other catastrophe that is declared a major disaster by the President in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) in the crop year—

“(A) in which the natural disaster occurred; or

“(B) immediately preceding the crop year in which the natural disaster occurred.

“(3) RICE RATOONING.—The term ‘rice ratooning’ means the agricultural practice of harvesting rice by cutting the majority of the aboveground portion of the rice plant but leaving the roots and growing shoot apices intact to allow the plant to recover and produce a second crop yield.

“(b) REGULATIONS TO EXCLUDE RICE RATOONING AND POST-DISASTER FLOODING.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of Agriculture, shall revise part 20 of title 50, Code of Federal Regulations, to clarify that rice ratooning and post-disaster flooding, when carried out as part of a normal agricultural operation, do not constitute baiting.

“(c) REPORTS.—Not less frequently than once each year—

“(1) the Secretary of Agriculture shall submit to the Secretary of the Interior a report that describes any changes to normal agricultural operations across the range of crops grown by agricultural producers in each region of the United States in which the official recommendations described in section 20.11(h) of title 50, Code of Federal Regulations (as in effect on the date of enactment of this Act), are provided to agricultural producers; and

“(2) the Secretary of the Interior, in consultation with the Secretary of Agriculture and after seeking input from the heads of State departments of fish and wildlife or the Regional Migratory Bird Flyway Councils of the United States Fish and Wildlife Service, shall publicly post a report on the impact that rice ratooning and post-disaster flooding have on the behavior of migratory game birds that are hunted in the area in which rice ratooning and post-disaster flooding, respectively, have occurred.”

REPORT ON EFFECTS OF 1998 AMENDMENTS

Pub. L. 105-312, title I, §104, Oct. 30, 1998, 112 Stat. 2956, directed that no later than 5 years after Oct. 30, 1998, the Secretary of the Interior submit to the appropriate Senate and House committees a report analyzing the effect of certain amendments made by Pub. L. 105-312, and the general practice of baiting, on migratory bird conservation and law enforcement efforts under the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).

Executive Documents

TRANSFER OF FUNCTIONS

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 701 of this title.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Interior of authority vested in President, see Ex. Ord. No. 10752, Feb. 12, 1958, 23 F.R. 973, set out as a note under section 715j of Title 15, Commerce and Trade.

Secretary of the Interior empowered to promulgate regulations under this section without approval, ratification, or other action of President, see section 2(b) of Ex. Ord. No. 10250, June 5, 1951, 16 F.R. 5385, set out as a note under section 301 of Title 3, The President.

§ 705. Transportation or importation of migratory birds; when unlawful

It shall be unlawful to ship, transport, or carry, by any means whatever, from one State,

Territory, or district to or through another State, Territory, or district, or to or through a foreign country, any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried at any time contrary to the laws of the State, Territory, or district in which it was captured, killed, or taken, or from which it was shipped, transported, or carried. It shall be unlawful to import any bird, or any part, nest, or egg thereof, captured, killed, taken, shipped, transported, or carried contrary to the laws of any Province of the Dominion of Canada in which the same was captured, killed, or taken, or from which it was shipped, transported, or carried.

(July 3, 1918, ch. 128, §4, 40 Stat. 755; June 20, 1936, ch. 634, §4, 49 Stat. 1556; 1939 Reorg. Plan No. II, §4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Pub. L. 91-135, §10, Dec. 5, 1969, 83 Stat. 282.)

Editorial Notes

AMENDMENTS

1969—Pub. L. 91-135 repealed second par., which prohibited shipment of wild game mammals or parts thereof by any person of the United States to and from Mexico, except by permit from the Secretary of the Interior.

1936—Act June 20, 1936, inserted last sentence.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-135, §11, Dec. 5, 1969, 83 Stat. 282, provided that: “The provisions of sections 1 through 10 of this Act [enacting sections 668cc-1 to 668cc-6 of this title and amending this section, sections 851, 852, 852a, and 852d of this title, and sections 43, 44, 3054, and 3112 of Title 18, Crimes and Criminal Procedure] shall be effective one hundred and eighty days after the date of enactment of this Act [Dec. 5, 1969].”

EFFECTIVE DATE OF 1936 AMENDMENT

Act June 20, 1936, ch. 634, §4, 49 Stat. 1556, provided in part that the amendment by section 4 is effective as of the day aforesaid (June 30, 1937). See note under section 703 of this title.

Executive Documents

TRANSFER OF FUNCTIONS

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 701 of this title.

§ 706. Arrests; search warrants

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this subchapter shall have power, without warrant, to arrest any person committing a violation of this subchapter in his presence or view and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this subchapter; and shall have authority, with a search warrant, to search any place. The several judges of the courts established under the laws of the United States, and United States magistrate judges may, within