

Quick-Reference Legal Summary

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Federal Wildlife and Related Laws Handbook; Chapter 4. Statute Summaries

MIGRATORY BIRD CONSERVATION ACT

16 U.S.C. §§ 715-715r, February 18, 1929, as amended 1935, 1961, 1962, 1966-1968, 1970, 1973, 1976, 1978, 1983, 1984, 1986, 1988 and 1989.

Overview. This Act establishes a Migratory Bird Conservation Commission to approve areas of land or water recommended by the Secretary of the Interior for acquisition as reservations for migratory birds. Consultation with state and local government is required prior to acquisition.

Selected Definitions. Migratory birds: birds defined as migratory birds by the 1916 treaty between the U.S. and Great Britain for the protection of migratory birds, the 1936 treaty between the U.S. and the United Mexican States for the protection of migratory birds and game mammals, the 1972 Convention between the U.S. and Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment, and the 1976 Convention between the U.S. and the Union of Soviet Socialist Republics for the Conservation of Migratory Birds and their Environment. § 715j.

Migratory Bird Conservation Commission. The Migratory Bird Conservation Commission is created and authorized to consider and act on recommendations of the Secretary of the Interior (Secretary) for the purchase or rental of land, water, or land and water for the conservation of migratory birds. The commission shall consist of the Secretary as chairman, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and two members from each house of Congress.

The official responsible for the administration of a state's game laws, or his representative, shall be an ex officio member of the commission for the purpose of considering and voting on questions relating to the acquisition of areas in that state. The commission is to report its operations to Congress annually §§ 715a and 715b.

Acquisition of Suitable Areas. The Secretary may not recommend an area for purchase or rental under the Act unless the Secretary has determined that the area is necessary for the conservation of migratory birds and has consulted with the county in which the area is located and with the governor of the state concerned, or the appropriate state agency. The Secretary may purchase or rent such areas or interests therein as have been approved by the commission and may acquire, by gift or devise, any area or interest therein which the Secretary determines to be suitable for use as an inviolate sanctuary, or for any other management purpose, for migratory birds. No lands held by the U.S. for military purposes shall be subject to the Act. §§ 715c and 715d.

Examination of Title. The Secretary may do all things and make all expenditures necessary to secure safe title in the U.S. to the areas which may be acquired under the Act, but no payment shall be made until title is satisfactory to the Attorney General's office. Rights-of-way, easements and reservations are acceptable so long as they do not interfere with use of the areas for the conservation of migratory birds. § 715e.

Consent of State to Acquisition. No deed or instrument of conveyance in fee shall be accepted by the Secretary under the Act unless the state in which the area lies consents by law to the acquisition. No land shall be acquired with moneys from the Migratory Bird Conservation Fund unless the acquisition has been approved by the governor of the state or appropriate state agency. Nothing in the Act should be construed as authorizing the Migratory Bird Conservation Commission, the Secretary, or any other board or officer, to declare, withdraw or determine any part of a national forest or power site to be a migratory bird reservation, except with the consent of the legislature of the state where the forest or power site is located. §§ 715f, 715k-5 and 715o.

Jurisdiction of State over Areas Acquired. The jurisdiction of the state, both civil and criminal, over persons within acquired areas shall not be affected or changed by reason of the acquisition and administration of the areas by the U.S. as migratory bird reservations. Nothing in the Act is intended to interfere with the operation of state game laws, except that those laws must not permit what is forbidden by federal law. §§ 715f and 715h.

Any state may provide legislatively for enforcement of this Act and regulations issued under the Act. When the Secretary certifies that the state's legislation is adequate, the state may cooperate with the Secretary in the enforcement of the Act and regulations. § 715p.

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Administration. Areas of lands, waters, or interests therein acquired or reserved pursuant to the Act shall be administered by the Secretary under rules and regulations intended to conserve and protect migratory birds in accordance with treaty obligations with Mexico, Canada, Japan and the USSR, and other species of wildlife found thereon, and to restore or develop adequate wildlife habitat. In administering such areas, the Secretary may: manage timber, range, and agricultural crops; manage other species of animals; enter into agreements with public and private agencies. § 715i.

Appropriations Authorized. Annual appropriations of \$200,000 were authorized for fiscal year 1940 and each fiscal year thereafter, in addition to all other amounts authorized by law to be appropriated. The law also authorized an appropriation of \$200 million to the Migratory Bird Conservation Fund in order to promote the conservation of migratory waterfowl and offset or prevent serious loss of important wetlands and other waterfowl habitat. (The fund is described further in the summary of the Migratory Bird Hunting and Conservation Stamp Act.) §§ 715k, 715k-3 and 715k-4.

Editor's Note. The Migratory Bird Conservation Commission also has responsibilities under the North American Wetlands Conservation Act, summarized separately in this Handbook. The commission approves wetlands conservation projects recommended by the council established by that Act.

Suggested in-text citation and full reference:

(16 U.S.C. 715)

16 U.S.C. §§ 715 - 715r. Migratory Bird Conservation Act. Feb. 18, 1929, ch. 257, Sec. 1, 45 Stat. 1222.

